

OKLAHOMA STATUTES  
TITLE 10A. CHILDREN AND JUVENILE CODE

§10A-1-1-101. Short title - Subsequent enactments - Article, chapter and part captions.....8

§10A-1-1-102. Recognition of duties, rights and interests - Legislative intent.....8

§10A-1-1-104. Jurisdiction to enforce Oklahoma Children's Code.....10

§10A-1-1-105. See the following versions:.....11

§10A-1-1-105v1. Definitions.....11

§10A-1-1-105v2. Definitions.....24

§10A-1-2-101. Establishment of statewide centralized hotline for reporting child abuse or neglect -  
Hotline requirements - Reporting abuse or neglect - Retaliation by employer - Violations.....37

§10A-1-2-102. See the following versions:.....40

§10A-1-2-102v1. Department of Human Services - Required actions for reports of child abuse.....40

§10A-1-2-102v2. Assessment and investigations - Determinations and referrals by Department of  
Human Services - Investigations by law enforcement agencies.....43

§10A-1-2-103. Judicial authority to request investigation.....46

§10A-1-2-104. Immunity from civil and criminal liability - Presumption.....46

§10A-1-2-105. Investigation of child abuse or neglect - Assessment of family - Immediate removal of  
child - Report - Voluntary services - Temporary restraining order - Investigation by State Bureau of  
Investigation - Child with complex medical needs.....46

§10A-1-2-106. Notice to person being investigated.....50

§10A-1-2-107. Disclosure of information.....52

§10A-1-2-108. Central registry for child abuse, sexual abuse, sexual exploitation and neglect.....52

§10A-1-2-109. Relinquishment of child 7 days of age or younger to medical services provider or child  
rescuer.....53

§10A-1-2-110. Abandonment of child in voluntary placement.....55

§10A-1-2-111. Pilot program to improve socioeconomic outcomes for children in state custody.....55

§10A-1-3-101. Authorization to consent to medical or dental care.....57

§10A-1-3-102. Medical care and treatment - Definitions - Authorization and consent.....58

§10A-1-3-103. Immunity from liability for authorizing medical treatment or mental health evaluation  
or treatment.....59

§10A-1-4-101. Jurisdiction - Venue - Residence of child - Transfer of proceedings.....59

§10A-1-4-102. Evidence of child abuse or neglect in matrimonial or child custody actions -  
Investigation by Department of Human Services - Orders for protective custody - Appointment of  
attorney for child.....62

§10A-1-4-201. Circumstances authorizing taking a child into custody - Joint response by Department  
of Human Services, law enforcement, and district courts - Safety evaluation.....63

§10A-1-4-202. Written notification of emergency custody hearing.....68

§10A-1-4-203. Emergency custody hearing - Affidavit - Notice to relatives.....68

§10A-1-4-204. Placement preferences.....70

§10A-1-4-205. Records of child in protective custody - Petition - Hearings - Order providing for  
removal of a child.....73

§10A-1-4-206. Restraining order - Hearing.....74

§10A-1-4-207. Immediate assumption of custody to protect child's health or welfare.....76

§10A-1-4-208. Standardized assessment for children taken into custody.....76

§10A-1-4-301. Petitions.....76

§10A-1-4-302. Amendment of petition - Postadjudication petition.....77

§10A-1-4-303. Summons - Contents - Waiver of service.....78

§10A-1-4-304. Service of summons.....79

§10A-1-4-305. Failure to appear without reasonable cause - Consent to adjudication - Contempt -  
Warrants.....81

§10A-1-4-306. Appointment of counsel - Guardians ad litem - Court-appointed special advocates...81

§10A-1-4-401. Discovery and court rules concerning juvenile proceedings - Exchange of information  
- Protective order.....85

§10A-1-4-501. District attorney to act as petitioner.....86

§10A-1-4-502. Jury trial.....	86
§10A-1-4-503. Conduct of hearings.....	87
§10A-1-4-504. Alternative dispute resolution.....	88
§10A-1-4-505. Admissibility of prerecorded statements of child age 12 or under who is victim of abuse.....	89
§10A-1-4-506. Taking testimony of child age 12 or under in room other than courtroom - Recording.....	90
§10A-1-4-507. Admissibility of evidence.....	91
§10A-1-4-508. Immunity for testimony - Records - Statements during evaluation or treatment.....	92
§10A-1-4-601. Adjudication hearing.....	92
§10A-1-4-602. Allegations of petition not supported by evidence.....	94
§10A-1-4-603. Order of adjudication finding child to be deprived.....	94
§10A-1-4-701. Reimbursements and costs by parents able to pay.....	95
§10A-1-4-702. Deprived child - Paternity - Support.....	96
§10A-1-4-703. Examination of child - Investigation of home conditions.....	99
§10A-1-4-704. Individualized service plan.....	99
§10A-1-4-705. Religious preference in placement - Placement of child - Restriction on placement in home of felon or sex offender.....	104
§10A-1-4-706. Dispositional hearing.....	105
§10A-1-4-707. Dispositional orders - Determinations.....	107
§10A-1-4-708. Deprivation based on repeated absence from school.....	113
§10A-1-4-709. Permanent guardianship.....	113
§10A-1-4-710. Motion for permanent guardianship - Notice - Home study - Findings - Visitation - Guardianship review.....	115
§10A-1-4-711. Motion for modification or termination of a permanent guardianship.....	117
§10A-1-4-712. Authority to establish family drug court - Procedures.....	119
§10A-1-4-713. Family drug court assessment.....	119
§10A-1-4-714. Family drug court program eligibility.....	120
§10A-1-4-715. Family drug court judge - Powers.....	122
§10A-1-4-716. Family drug court costs - Family Drug Court Revolving Fund.....	123
§10A-1-4-801. Stay pending review of release order.....	124
§10A-1-4-802. Hearing to determine release of child from state custody.....	125
§10A-1-4-803. Placement of child in the custody of the Department of Human Services.....	126
§10A-1-4-804. Notification of movement of child in the custody of Department of Human Services.....	126
§10A-1-4-805. Change in foster or group home placement.....	127
§10A-1-4-806. Trial home reunification.....	130
§10A-1-4-807.1. Emergency hearings.....	131
§10A-1-4-807. Review hearing.....	131
§10A-1-4-808. Review hearing report - Child's access to counsel.....	135
§10A-1-4-809. Findings establishing that reasonable efforts to reunify child are not required.....	136
§10A-1-4-810. Permanency meeting and reports.....	137
§10A-1-4-811. Permanency hearing and findings.....	138
§10A-1-4-812. Determination of eligibility of foster parent to adopt.....	142
§10A-1-4-813. Postadoption agreements with birth relatives.....	143
§10A-1-4-814. Modification of decrees or orders.....	145
§10A-1-4-901. Filing of petition or motion for termination of parental rights.....	145
§10A-1-4-902. Termination motion or petition by district attorney.....	146
§10A-1-4-903. Order to terminate parent-child legal relationship - Show cause.....	148
§10A-1-4-904. Termination of parental rights in certain situations.....	148
§10A-1-4-905. Notice of hearing to terminate parental rights.....	153
§10A-1-4-906. Effect of termination of parental rights.....	154
§10A-1-4-907. Vesting authority to consent to adoption.....	155

§10A-1-4-908. Failure of parental rights to be terminated at trial – Permanency hearing – Continuing jurisdiction.....	155
§10A-1-4-909. Application by child to reinstate parental rights.....	155
§10A-1-5-101. Appeal of order or decree.....	158
§10A-1-5-102. Initial of child's surname required in court opinions.....	158
§10A-1-5-103. Time for filing petition - Briefing schedule – Priority basis expediting of adjudication. ....	159
§10A-1-6-101. Court to make and keep records - Definitions.....	159
§10A-1-6-102. Confidential records.....	161
§10A-1-6-103. Inspection of records without court order.....	166
§10A-1-6-104. Redaction of other children's information.....	171
§10A-1-6-105. Disclosure of certain information in cases of death or near-death of a child.....	171
§10A-1-6-106. Filing of social records with the court.....	176
§10A-1-6-107. Confidentiality - Violation - Penalty.....	176
§10A-1-6-108. Maintenance of records.....	177
§10A-1-7-101. Duties and rights of persons or agencies receiving custody - Exception.....	177
§10A-1-7-102. Responsibility for deprived children.....	179
§10A-1-7-103. Department of Human Services - Additional duties and powers.....	179
§10A-1-7-104. Information to accompany child placed outside child's home – Passport Program...182	
§10A-1-7-105. Rules, policies and procedures regarding children in Department custody.....	184
§10A-1-7-106. Placement of child into foster care.....	186
§10A-1-7-107. Placement with siblings – Contact and visitation with siblings.....	186
§10A-1-7-108. Liability for costs voluntarily expended by foster parent.....	187
§10A-1-7-109. Foster placements - License or authorization - Exception.....	187
§10A-1-7-110. Grounds for determination of placement.....	188
§10A-1-7-111. Foster parent eligibility assessment - Criminal history investigation - Individualized service plan - Medical examinations.....	188
§10A-1-7-112. Voluntary foster care placement.....	191
§10A-1-7-113. Visitation requirements for the Department of Human Services or child-placing agency.....	192
§10A-1-7-114. Foster parent eligibility assessment – Completion and costs - Reimbursement.....	192
§10A-1-7-115. Emergency placement home - Criminal records check.....	192
§10A-1-7-116. Notice to placement agencies when a child in custody becomes eligible for adoption. ....	193
§10A-1-8-101. Education and training of judicial personnel and attorneys with juvenile docket responsibility.....	194
§10A-1-8-102. Court-appointed special advocate – Education and training – Criminal history search – Civil liability immunity.....	195
§10A-1-8-103. Referees.....	196
§10A-1-8-104. Mileage fees and witness reimbursement.....	197
§10A-1-8-105. Penalties.....	197
§10A-1-8-106. Applicability of the Oklahoma Minor Identification Act.....	198
§10A-1-8-107. Order for transportation of child by sheriff's office - Reimbursement.....	198
§10A-1-8-108. Appointment of legal guardian – Appointment of guardian ad litem.....	199
§10A-1-8-109. Development of agency-wide process for background checks - Individual limits to number of children.....	200
§10A-1-8-110. Falsification of documents relating to deprived children proceedings - Penalties....	200
§10A-1-8-111. Annual credit report for youth in custody.....	200
§10A-1-8-112. Private child-placing agencies – Objection to placement of a child based on religious or moral convictions or policies.....	201
§10A-1-9-101. Community-based programs.....	201
§10A-1-9-102. Multidisciplinary teams - Intervention in reports of abuse or neglect - Duties.....	202
§10A-1-9-103. Child Abuse Multidisciplinary Account.....	205

§10A-1-9-103a. Child Abuse Multidisciplinary Team Account (CAMTA) Fund.....	206
§10A-1-9-103b. CAMTA Fund – Administration – Purpose - Contents of Fund.....	206
§10A-1-9-104. Allocation of monies in Child Abuse Multidisciplinary Account.....	207
§10A-1-9-104a. Contract with eligible providers.....	210
§10A-1-9-104b. Promulgation of rules.....	210
§10A-1-9-105. Program planning and monitoring.....	210
§10A-1-9-106. Kinship Foster Care Program.....	211
§10A-1-9-107. Successful Adulthood Act - Short title - Purpose.....	213
§10A-1-9-108. Pilot program to serve children at high risk of abuse and neglect.....	215
§10A-1-9-109. Performance-based incentive compensation program for child welfare specialists..	217
§10A-1-9-110. Community-based services and care for deprived children - Grants and contracts..	217
§10A-1-9-111. Management, operation and use of children’s shelters.....	219
§10A-1-9-112.1. Investigation of reported abuse or neglect - Written response.....	221
§10A-1-9-112. Office of Client Advocacy.....	222
§10A-1-9-113. Provision of shelter and care to minor mothers who are victims of domestic abuse. .....	225
§10A-1-9-114. Recruitment of foster parents from child’s relatives or from families of same minority racial or ethnic heritage.....	226
§10A-1-9-115. Foster parent associations - State agencies to cooperate and promote development. .....	226
§10A-1-9-116.1. Liability of foster parent.....	226
§10A-1-9-116. Foster parent training and continuing education.....	227
§10A-1-9-117. Allegations against employees of Department or child-placing agency by foster parent.....	228
§10A-1-9-118. Written contract - Information provided to foster parents - Supervision by child- placing agency.....	230
§10A-1-9-119.1. Rights of children being served by Child Welfare Services.....	231
§10A-1-9-119. Statement of foster parent's rights.....	235
§10A-1-9-120. Grievance procedures for foster parents.....	237
§10A-1-9-121. Grandparents - Legislative findings and declaration - Informational and educational program - Distribution of informational brochures.....	238
§10A-1-9-122. Supported guardianship program.....	240
§10A-1-9-123. Policies and procedures for children and youth at risk of sex trafficking.....	240
§10A-1-9-124. Zero to Three Court Program.....	241
§10A-1-10-101. Repealed by Laws 2012, c. 353, § 13, emerg. eff. June 8, 2012.....	241
§10A-1-10-102. Repealed by Laws 2012, c. 353, § 13, emerg. eff. June 8, 2012.....	241
§10A-1-10-103. Child Welfare Review Committee for the Death and Near Death of Children With Disabilities.....	241
§10A-2-1-101. Short title.....	242
§10A-2-1-102. Legislative intent - Construction of chapter - Purpose.....	243
§10A-2-1-103. Definitions.....	244
§10A-2-2-101. Taking of child into custody - Detention - Medical treatment - Behavioral health treatment - Hearing on order for medical treatment.....	251
§10A-2-2-102. Personal jurisdiction.....	256
§10A-2-2-103. Municipal jurisdiction of children – Interlocal agreements – Municipal juvenile facility - Fines.....	259
§10A-2-2-104.1. Diversion services.....	263
§10A-2-2-104. Preliminary inquiry - Petition.....	264
§10A-2-2-105. Order removing child from home prohibited absent certain determinations.....	266
§10A-2-2-106. Petition - Subsequent pleadings - Amended petitions.....	267
§10A-2-2-107. Summons – Warrant - Service.....	268
§10A-2-2-108. Examination by health care professionals - Order for treatment.....	269
§10A-2-2-301. Conduct of interrogations - Appointment of counsel - Guardians ad litem.....	270

§10A-2-2-401.1. Definitions.....	272
§10A-2-2-401.2. Delinquency proceedings - Competency of child - Rebuttable presumption.....	273
§10A-2-2-401.3. Motion for determination of competency - Competency evaluation.....	273
§10A-2-2-401.4. Credentialed forensic evaluators - Exceptions.....	274
§10A-2-2-401.5. Competency evaluation report.....	275
§10A-2-2-401.6. Competency hearing.....	277
§10A-2-2-401.7. Court responses to competency determination.....	277
§10A-2-2-401. Trial by jury.....	281
§10A-2-2-402. Conduct of adjudicative hearings.....	281
§10A-2-2-403. Preliminary hearing.....	283
§10A-2-2-404. Deferral of delinquency adjudication proceedings.....	285
§10A-2-2-501. Dispositional hearings.....	286
§10A-2-2-502. Recommendation for disposition - Probation - Risk and needs assessment tools....	287
§10A-2-2-503. Disposition orders - Revocation, modification and redispotion.....	289
§10A-2-2-504. Periodic review of disposition orders.....	296
§10A-2-2-505. Juvenile drug court program.....	298
§10A-2-2-506. Juvenile drug court investigation - Report - Eligibility.....	299
§10A-2-2-507. Juvenile drug court program - Final eligibility hearing - Admittance into program..	301
§10A-2-2-508. Juvenile drug court program - Periodic review, progress reports and hearings.....	302
§10A-2-2-509. Payment of juvenile drug court program costs and fees - Juvenile Drug Court Revolving Fund.....	304
§10A-2-2-601. Appeals.....	305
§10A-2-2-701. Summons - Bench warrants - Obligations of parent, legal guardian, or custodian...	306
§10A-2-2-702. Referees.....	307
§10A-2-2-703. Expenses for care and maintenance of child.....	308
§10A-2-2-801. Procedures and requirements for placement of adjudicated children.....	309
§10A-2-2-802. Termination of parental rights.....	310
§10A-2-2-803. Review and assessment of children committed to Office of Juvenile Affairs.....	311
§10A-2-2-804. Child in need of mental health treatment.....	311
§10A-2-2-805. Commitment of child to custody of Office of Juvenile Affairs - Delivery to designated institution.....	312
§10A-2-2-806. Repealed by Laws 2013, c. 404, § 30, eff. Nov. 1, 2013.....	312
§10A-2-3-101. Conditions of detention of child - Detention or confinement in adult facility - Access to facilities and data.....	312
§10A-2-3-102. Persons under 18 years of age who have fled from another state considered adults for purposes of detention only in certain cases.....	318
§10A-2-3-103. Temporary detention - Transportation - Certification of juvenile detention facilities. .....	318
§10A-2-3-104. Tort liability coverage of juvenile detention services - Contracts between boards of county commissioners.....	323
§10A-2-4-101. Juvenile bureau and citizens' advisory committee.....	323
§10A-2-4-102. Director and other personnel.....	325
§10A-2-4-103. Administrative work of court - Uniformity of procedures and care.....	325
§10A-2-4-104. Investigations and reports - Legal proceedings.....	326
§10A-2-4-105. Arrests - Service of process.....	326
§10A-2-4-106. Transportation of juveniles - Expenses.....	327
§10A-2-4-107. Salaries and expenses - Offices and equipment.....	327
§10A-2-4-108. Detention and group homes.....	329
§10A-2-4-109. Citizens' advisory committee.....	329
§10A-2-4-110. Appointment of personnel for Juvenile Docket of district court.....	330
§10A-2-5-101. Repealed by Laws 2018, c. 155, § 10, eff. Nov. 1, 2018.....	330
§10A-2-5-201. Short title - Implementation date.....	330
§10A-2-5-202. Definitions - Purpose.....	330

§10A-2-5-203. Court proceedings - Jurisdiction.....	331
§10A-2-5-204. Treatment of a child certified as an adult or youthful offender in criminal proceedings. .....	332
§10A-2-5-205. Certification as youthful offender or juvenile.....	334
§10A-2-5-206. Certain acts mandating youthful offender status - Filing of delinquency petition or youthful offender information - Warrant, certification process - Guidelines.....	338
§10A-2-5-207. Applicability to youths aged seventeen.....	342
§10A-2-5-208. Motion by district attorney to sentence child as an adult — Considerations — Standard of proof — Sentencing.....	343
§10A-2-5-209. Presentence investigation - Hearing - Factors and considerations - Imposition of sentence - Confinement.....	346
§10A-2-5-210. Rehabilitation plan - Annual review hearing - Transfer to Department of Corrections - Time-served credits.....	349
§10A-2-5-211. Commitment to Department of Corrections - Judgment and sentence.....	353
§10A-2-5-212. Delinquent or youthful offender in custody of Office of Juvenile Affairs - Placement options - Office duties and authority - Rights of delinquent or youthful offender.....	353
§10A-2-5-213. Pardon by Governor — Motion to set aside conviction — Release from penalties, destruction of records.....	355
§10A-2-5-301. Educational needs during confinement or incarceration.....	356
§10A-2-6-101. Court to keep records - Definitions.....	356
§10A-2-6-102. Confidential juvenile records.....	358
§10A-2-6-103. Confidentiality of social records.....	362
§10A-2-6-104. Inspection and disclosure of confidential records without court order.....	363
§10A-2-6-105. Inspection and disclosure of juvenile court records without court order.....	363
§10A-2-6-106. Inspection and disclosure of Office of Juvenile Affairs records without court order..	366
§10A-2-6-107. Fingerprinting of persons under 18.....	368
§10A-2-6-108. Effect of adjudication - Sealing of records - Order unsealing sealed records - Destruction of records.....	369
§10A-2-6-109. Expungement of open juvenile court record.....	371
§10A-2-6-110. Procedures for providing certain records to sheriffs - Confidentiality.....	373
§10A-2-7-101. Board of Juvenile Affairs - Members - Duties and responsibilities.....	374
§10A-2-7-201. Executive Director - Qualifications - Powers and duties.....	376
§10A-2-7-202. Creation of office - Powers and duties.....	378
§10A-2-7-203. Agreement with Supreme Court.....	381
§10A-2-7-204. Employee's personal property damaged or destroyed by juvenile in custody - Repair or replacement.....	382
§10A-2-7-301. Office of Juvenile Affairs - Responsibilities, offices, programs - Transfer of employees, powers, duties, etc.....	382
§10A-2-7-302. Division of Advocate Defender - Advocate General - Duties and responsibilities.....	386
§10A-2-7-303. Community-based programs.....	387
§10A-2-7-304. Financial agreements.....	388
§10A-2-7-305. Agreements to establish or maintain community-based youth service programs, shelters and community intervention centers.....	388
§10A-2-7-306. Designation of organizations as Youth Services Agencies - Termination of designation - Contract administration.....	391
§10A-2-7-307. Cooperative agreements with Department of Human Services.....	396
§10A-2-7-308. Management information system - Integration with other management information systems - Access to confidential records and reports.....	396
§10A-2-7-309. Department planning process for services to children and youth.....	397
§10A-2-7-310. Defining services and programs.....	398
§10A-2-7-311. Annual review of programs and services and implementation of Youthful Offender Act - Reports.....	399
§10A-2-7-401. Juvenile Detention Improvement Revolving Fund.....	400

§10A-2-7-402. Court and hearing costs of Office of Juvenile Affairs - Special agency account.....	401
§10A-2-7-501. Intake and probation services - Services related to juvenile offenders.....	402
§10A-2-7-502. Child adjudicated in need of supervision - Placement - Rehabilitative facilities - Mental health treatment.....	405
§10A-2-7-503. Delinquent children - Intent of Legislature - Powers and duties of Office.....	406
§10A-2-7-504. Discharge of children adjudicated delinquent - Retention of custody and jurisdiction. .....	407
§10A-2-7-601. Juveniles placed in Office-operated institutions and facilities - Powers and duties of Office.....	409
§10A-2-7-602. Methods of administration - Merit system - Employment of superintendent and other personnel - Criminal history records searches - Superintendent as guardian.....	412
§10A-2-7-603. Rules, policies and procedures required in facilities.....	413
§10A-2-7-604. Physical force, when authorized - Mechanical restraints - Chemical agents.....	415
§10A-2-7-605. Run away or AWOL from a staff secure or nonsecure placement.....	416
§10A-2-7-606. Central Oklahoma Juvenile Center - Supervision, management and control.....	416
§10A-2-7-607. Lloyd E. Rader Children's Center - Administration and control.....	417
§10A-2-7-608. Expansion of preadjudicatory secure detention beds - Responsibility for regional juvenile facility in southwestern part of state.....	418
§10A-2-7-609. Facilities and residential programs - Legislative intent.....	419
§10A-2-7-610. Phil Smalley Children's Unit of Oklahoma Youth Center - Designation as Phil Smalley Center.....	419
§10A-2-7-611. Secure facilities - Certification - Violations.....	419
§10A-2-7-612. Office of Juvenile Affairs - Sale of surplus real estate.....	420
§10A-2-7-613. Office of Juvenile Affairs - Foster care.....	421
§10A-2-7-614. Foster care - Requirement of licensing standards.....	421
§10A-2-7-615. Foster care - Contract requirements.....	422
§10A-2-7-616. Board of Juvenile Affairs - Charter school.....	422
§10A-2-7-617. Certification for secure detention center - Criminal history records search.....	423
§10A-2-7-618. Construction strategy for campus modifications - Best-value option.....	424
§10A-2-7-619. Public/private partnership - Authority to sell OJA campus property.....	425
§10A-2-7-620. Plans for repurposing the campuses of the Southwest Oklahoma Juvenile Center and the Oklahoma Juvenile Center for Girls.....	425
§10A-2-7-701. Short title - Purpose - Intent.....	426
§10A-2-7-702. Definitions.....	426
§10A-2-7-703. Office of Juvenile Affairs - Delinquency prevention, early intervention programs - Eligibility criteria.....	427
§10A-2-7-704. Eligibility for contracts - Contract criteria - Duties of recipients.....	428
§10A-2-7-705. Responsibility for implementation and evaluation of act - Contracts with eligible entities - Outcome-based performance reports.....	430
§10A-2-7-801. Juvenile Offender Victim Restitution Work Program.....	431
§10A-2-7-802. Juvenile Justice Public Works Program.....	433
§10A-2-7-901. Juvenile Offender Tracking Program - Purpose.....	434
§10A-2-7-902. Definitions.....	435
§10A-2-7-903. Juvenile Offender Tracking Program - Components.....	436
§10A-2-7-904. Implementation of Program - Duties of state and local agencies.....	436
§10A-2-7-905. Juvenile Justice Information System - Functions - Duties of state and local agencies - Plan for implementation.....	436
§10A-2-8-101. Short title.....	438
§10A-2-8-102. Juvenile sex offender defined.....	438
§10A-2-8-103. Juvenile sex offender registry - Information included.....	438
§10A-2-8-104. Application register - Criteria for qualifying - Court order.....	439
§10A-2-8-105. Juvenile sex offenders ordered to probation - Notification of duty to register.....	440
§10A-2-8-106. Annual registration - Notification of change of name and address.....	440

§10A-2-8-107. Failure to register or provide notification of change of name or address.....	441
§10A-2-8-108. Transfer of registration to adult sex offender registry - Petition.....	441
§10A-2-8-109. Juveniles not subject to act.....	442
§10A-2-8-110. Disclosure of information - Immunity from liability.....	442
§10A-2-8-111. Use of information to commit crime or cause physical harm or damage to property - Penalties.....	442
§10A-2-8-112. Rules, procedures, and forms.....	442
§10A-2-8-221. Transmission of obscenity and child pornography.....	443
§10A-2-8-222. Intoxicating beverages or low-point beer - Possession by persons under age 21.....	445
§10A-2-8-223. Penalties.....	445
§10A-2-8-224. Purchase, receipt or possession of tobacco or vapor products by minors prohibited - Falsifying proof of age - Penalties - Notification of parent or guardian - Municipal ordinances.....	445
§10A-2-9-101. Short title.....	446
§10A-2-9-102. Purpose.....	446
§10A-2-9-103. Definitions.....	448
§10A-2-9-104. Interstate Commission for Juveniles.....	449
§10A-2-9-105. Interstate Commission - Powers and duties.....	452
§10A-2-9-106. Interstate Commission - Organization and operation.....	454
§10A-2-9-107. Interstate Commission - Rulemaking.....	456
§10A-2-9-108. Interstate Commission - Oversight, enforcement and dispute resolution.....	457
§10A-2-9-109. Finance.....	458
§10A-2-9-110. State Council.....	459
§10A-2-9-111. Compacting states - Effective date - Amendment.....	459
§10A-2-9-112. Withdrawal - Default - Termination - Judicial enforcement.....	460
§10A-2-9-113. Severability and construction.....	462
§10A-2-9-114. Binding effect - Other laws.....	462
§10A-2-9-115. Appointing authority - Compact administrator.....	463
§10A-2-9-116. State Council for Interstate Juveniles Supervision.....	463
§10A-2-10-101. Oklahoma Mentoring Children of Incarcerated Parents Program - Purpose.....	464
§10A-2-10-102. Application to administer - Requirements.....	465
§10A-2-10-103. Annual report.....	466

§10A-1-1-101. Short title - Subsequent enactments - Article, chapter and part captions.

A. Sections 1-1-101 through 1-9-122 of this title shall be known and may be cited as the "Oklahoma Children's Code".

B. All statutes hereinafter enacted and codified in this title shall be considered and deemed part of the Oklahoma Children's Code.

C. Article, chapter, and part captions are part of the Oklahoma Children's Code, but shall not be deemed to govern, limit or in any manner affect the scope, meaning or intent of the provisions of any chapter or part of this Code.

D. The provisions of this article shall not apply to adoption proceedings and actions to terminate parental rights which do not involve a petition for deprived status of the child. Such proceedings and actions shall be governed by the Oklahoma Adoption Code.

Added by Laws 1995, c. 352, § 1, eff. July 1, 1995. Amended by Laws 1998, c. 415, § 1, emerg. eff. June 11, 1998; Laws 2009, c. 233, § 9,

emerg. eff. May 21, 2009. Renumbered from § 7001-1.1 of Title 10 by Laws 2009, c. 233, § 209, emerg. eff. May 21, 2009.

§10A-1-1-102. Recognition of duties, rights and interests -  
Legislative intent.

A. For the purposes of the Oklahoma Children's Code, the Legislature recognizes that:

1. Parents have a natural, legal, and moral right, as well as a duty, to care for and support their children and such rights are protected by state and federal laws as well as the Constitution. To that end, it is presumed that the best interests of a child are ordinarily served by leaving the child in the custody of the parents, who are expected to have the strongest bond of love and affection and to be best able to provide a child those needed qualities that make a child's life safe and secure. Nevertheless, this presumption may be rebutted where there is evidence of abuse and neglect or threat of harm;

2. A child has a right to be raised by the mother and father of the child as well as a right to be raised free from physical and emotional abuse or neglect. When it is necessary to remove a child from a parent, the child is entitled to a permanent home and to be placed in the least restrictive environment to meet the needs of the child; and

3. Because the state has an interest in its present and future citizens as well as a duty to protect those who, because of age, are unable to protect themselves, it is the policy of this state to provide for the protection of children who have been abused or neglected and who may be further threatened by the conduct of persons responsible for the health, safety, and welfare of such children. To this end, where family circumstances threaten the safety of a child, the state's interest in the welfare of the child takes precedence over the natural right and authority of the parent to the extent that it is necessary to protect the child and assure that the best interests of the child are met.

B. It is the intent of the Legislature that the Oklahoma Children's Code provide the foundation and process for state intervention into the parent-child relationship whenever the circumstances of a family threaten the safety of a child and to properly balance the interests of the parties stated herein. To this end, it is the purpose of the laws relating to children alleged or found to be deprived to:

1. Intervene in the family only when necessary to protect a child from harm or threatened harm;

2. Provide expeditious and timely judicial and agency procedures for the protection of the child;

3. Preserve, unify, and strengthen the family ties of the child whenever possible when in the best interests of the child to do so;

4. Recognize that the right to family integrity, preservation or reunification is limited by the right of the child to be protected from abuse and neglect;

5. Make reasonable efforts to prevent or eliminate the need for the removal of a child from the home and make reasonable efforts to return the child to the home unless otherwise prescribed by the Oklahoma Children's Code;

6. Recognize that permanency is in the best interests of the child;

7. Ensure that when family rehabilitation and reunification are not possible, the child will be placed in an adoptive home or other permanent living arrangement in a timely fashion; and

8. Secure for each child the permanency, care, education, and guidance as will best serve the spiritual, emotional, mental and physical health, safety, and welfare of the child.

C. Whenever it is necessary for a child to be placed outside the home pursuant to the Oklahoma Children's Code, it is the intent of the Legislature that:

1. Each child shall be assured the care, guidance, and supervision in a permanent home or foster home that will serve the best interests of the child including, but not limited to, the development of the moral, emotional, spiritual, mental, social, educational, and physical well-being of the child;

2. When a child is placed in foster care, the foster parent shall be allowed to consider the child as part of the family;

3. Whenever possible siblings shall be placed together and when it is not possible efforts shall be made to preserve the relationships through visitation and other methods of communication; and

4. Permanent placement is achieved as soon as possible.

D. A foster parent or group home where a child is placed has a recognizable interest in the familial relationship that the foster parent or group home establishes with a foster child and shall therefore be considered an essential participant with regard to decisions related to the care, supervision, guidance, rearing, and other foster care services to the child.

E. It is the intent of the Legislature that the paramount consideration in all proceedings within the Oklahoma Children's Code is the best interests of the child.

Added by Laws 1968, c. 282, § 129, eff. Jan. 13, 1969. Amended by Laws 1982, c. 312, § 25, operative Oct. 1, 1982; Laws 1992, c. 298, § 31, eff. July 1, 1993; Laws 1994, c. 290, § 2, eff. July 1, 1994; Laws 1995, c. 352, § 2, eff. July 1, 1995. Renumbered from § 1129 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1998, c. 421, § 1, emerg. eff. June 11, 1998; Laws 2009, c. 233, § 10, emerg. eff. May 21, 2009. Renumbered from § 7001-1.2 of Title

10 by Laws 2009, c. 233, § 210, emerg. eff. May 21, 2009. Amended by Laws 2014, c. 105, § 1, eff. Nov. 1, 2014.

§10A-1-1-104. Jurisdiction to enforce Oklahoma Children's Code.

The Attorney General, the district attorney of the appropriate district and any other law enforcement official having jurisdiction shall have the authority to bring civil actions against any person, officer or department, board, commission or other entity, to enforce the provisions of the Oklahoma Children's Code, or to enforce any of the laws of this state protecting or applying in any way to a child removed from the custody of the lawful parent of the child by a disposition order of the court.

Added by Laws 2009, c. 233, § 111, emerg. eff. May 21, 2009.

§10A-1-1-105. See the following versions:

OS 10A-1-1-105v1 (SB 318, Laws 2019, c. 250, § 1).

OS 10A-1-1-105v2 (HB 1993, Laws 2019, c. 297, § 1).

§10A-1-1-105v1. Definitions.

When used in the Oklahoma Children's Code, unless the context otherwise requires:

1. "Abandonment" means:

- a. the willful intent by words, actions, or omissions not to return for a child, or
- b. the failure to maintain a significant parental relationship with a child through visitation or communication in which incidental or token visits or communication are not considered significant, or
- c. the failure to respond to notice of deprived proceedings;

2. "Abuse" means harm or threatened harm to the health, safety, or welfare of a child by a person responsible for the child's health, safety, or welfare, including but not limited to nonaccidental physical or mental injury, sexual abuse, or sexual exploitation. Provided, however, that nothing contained in the Oklahoma Children's Code shall prohibit any parent from using ordinary force as a means of discipline including, but not limited to, spanking, switching, or paddling.

- a. "Harm or threatened harm to the health or safety of a child" means any real or threatened physical, mental, or emotional injury or damage to the body or mind that is not accidental including but not limited to sexual abuse, sexual exploitation, neglect, or dependency.
- b. "Sexual abuse" includes but is not limited to rape, incest, and lewd or indecent acts or proposals made to a child, as defined by law, by a person responsible for the health, safety, or welfare of the child.

- c. "Sexual exploitation" includes but is not limited to allowing, permitting, encouraging, or forcing a child to engage in prostitution, as defined by law, by any person eighteen (18) years of age or older or by a person responsible for the health, safety, or welfare of a child, or allowing, permitting, encouraging, or engaging in the lewd, obscene, or pornographic, as defined by law, photographing, filming, or depicting of a child in those acts by a person responsible for the health, safety, and welfare of the child;

3. "Adjudication" means a finding by the court that the allegations in a petition alleging that a child is deprived are supported by a preponderance of the evidence;

4. "Adjudicatory hearing" means a hearing by the court as provided by Section 1-4-601 of this title;

5. "Age-appropriate or developmentally appropriate" means:

- a. activities or items that are generally accepted as suitable for children of the same age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group, and
- b. in the case of a specific child, activities or items that are suitable for that child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the specific child.

In the event that any age-related activities have implications relative to the academic curriculum of a child, nothing in this paragraph shall be construed to authorize an officer or employee of the federal government to mandate, direct, or control a state or local educational agency, or the specific instructional content, academic achievement standards and assessments, curriculum, or program of instruction of a school;

6. "Assessment" means a comprehensive review of child safety and evaluation of family functioning and protective capacities that is conducted in response to a child abuse or neglect referral that does not allege a serious and immediate safety threat to a child;

7. "Behavioral health" means mental health, substance abuse, or co-occurring mental health and substance abuse diagnoses, and the continuum of mental health, substance abuse, or co-occurring mental health and substance abuse treatment;

8. "Child" means any unmarried person under eighteen (18) years of age;

9. "Child advocacy center" means a center and the multidisciplinary child abuse team of which it is a member that is

accredited by the National Children's Alliance or that is completing a sixth year of reaccreditation. Child advocacy centers shall be classified, based on the child population of a district attorney's district, as follows:

- a. nonurban centers in districts with child populations that are less than sixty thousand (60,000), and
- b. midlevel nonurban centers in districts with child populations equal to or greater than sixty thousand (60,000), but not including Oklahoma and Tulsa counties;

10. "Child with a disability" means any child who has a physical or mental impairment which substantially limits one or more of the major life activities of the child, or who is regarded as having such an impairment by a competent medical professional;

11. "Child-placing agency" means an agency that arranges for or places a child in a foster family home, group home, adoptive home, or a successful adulthood program;

12. "Children's emergency resource center" means a community-based program that may provide emergency care and a safe and structured homelike environment or a host home for children providing food, clothing, shelter and hygiene products to each child served; after-school tutoring; counseling services; life-skills training; transition services; assessments; family reunification; respite care; transportation to or from school, doctors' appointments, visitations and other social, school, court or other activities when necessary; and a stable environment for children in crisis who are in custody of the Department of Human Services if permitted under the Department's policies and regulations, or who have been voluntarily placed by a parent or custodian during a temporary crisis;

13. "Community-based services" or "community-based programs" means services or programs which maintain community participation or supervision in their planning, operation, and evaluation. Community-based services and programs may include, but are not limited to, emergency shelter, crisis intervention, group work, case supervision, job placement, recruitment and training of volunteers, consultation, medical, educational, home-based services, vocational, social, preventive and psychological guidance, training, counseling, early intervention and diversionary substance abuse treatment, sexual abuse treatment, transitional living, independent living, and other related services and programs;

14. "Concurrent permanency planning" means, when indicated, the implementation of two plans for a child entering foster care. One plan focuses on reuniting the parent and child; the other seeks to find a permanent out-of-home placement for the child with both plans being pursued simultaneously;

15. "Court-appointed special advocate" or "CASA" means a responsible adult volunteer who has been trained and is supervised by

a court-appointed special advocate program recognized by the court, and when appointed by the court, serves as an officer of the court in the capacity as a guardian ad litem;

16. "Court-appointed special advocate program" means an organized program, administered by either an independent, not-for-profit corporation, a dependent project of an independent, not-for-profit corporation or a unit of local government, which recruits, screens, trains, assigns, supervises and supports volunteers to be available for appointment by the court as guardians ad litem;

17. "Custodian" means an individual other than a parent, legal guardian or Indian custodian, to whom legal custody of the child has been awarded by the court. As used in this title, the term "custodian" shall not mean the Department of Human Services;

18. "Day treatment" means a nonresidential program which provides intensive services to a child who resides in the child's own home, the home of a relative, group home, a foster home or residential child care facility. Day treatment programs include, but are not limited to, educational services;

19. "Department" means the Department of Human Services;

20. "Dependency" means a child who is homeless or without proper care or guardianship through no fault of his or her parent, legal guardian, or custodian;

21. "Deprived child" means a child:

- a. who is for any reason destitute, homeless, or abandoned,
- b. who does not have the proper parental care or guardianship,
- c. who has been abused, neglected, or is dependent,
- d. whose home is an unfit place for the child by reason of depravity on the part of the parent or legal guardian of the child, or other person responsible for the health or welfare of the child,
- e. who is a child in need of special care and treatment because of the child's physical or mental condition, and the child's parents, legal guardian, or other custodian is unable or willfully fails to provide such special care and treatment. As used in this paragraph, a child in need of special care and treatment includes, but is not limited to, a child who at birth tests positive for alcohol or a controlled dangerous substance and who, pursuant to a drug or alcohol screen of the child and an assessment of the parent, is determined to be at risk of harm or threatened harm to the health or safety of a child,
- f. who is a child with a disability deprived of the nutrition necessary to sustain life or of the medical treatment necessary to remedy or relieve a life-

threatening medical condition in order to cause or allow the death of the child if such nutrition or medical treatment is generally provided to similarly situated children without a disability or children with disabilities; provided that no medical treatment shall be necessary if, in the reasonable medical judgment of the attending physician, such treatment would be futile in saving the life of the child,

- g. who, due to improper parental care and guardianship, is absent from school as specified in Section 10-106 of Title 70 of the Oklahoma Statutes, if the child is subject to compulsory school attendance,
- h. whose parent, legal guardian or custodian for good cause desires to be relieved of custody,
- i. who has been born to a parent whose parental rights to another child have been involuntarily terminated by the court and the conditions which led to the making of the finding, which resulted in the termination of the parental rights of the parent to the other child, have not been corrected, or
- j. whose parent, legal guardian, or custodian has subjected another child to abuse or neglect or has allowed another child to be subjected to abuse or neglect and is currently a respondent in a deprived proceeding.

Nothing in the Oklahoma Children's Code shall be construed to mean a child is deprived for the sole reason the parent, legal guardian, or person having custody or control of a child, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the tenets and practice of a recognized church or religious denomination, for the treatment or cure of disease or remedial care of such child.

Nothing contained in this paragraph shall prevent a court from immediately assuming custody of a child and ordering whatever action may be necessary, including medical treatment, to protect the child's health or welfare;

22. "Dispositional hearing" means a hearing by the court as provided by Section 1-4-706 of this title;

23. "Drug-endangered child" means a child who is at risk of suffering physical, psychological or sexual harm as a result of the use, possession, distribution, manufacture or cultivation of controlled substances, or the attempt of any of these acts, by a person responsible for the health, safety or welfare of the child, as defined in this section. This term includes circumstances wherein the substance abuse of the person responsible for the health, safety or welfare of the child interferes with that person's ability to parent and provide a safe and nurturing environment for the child;

24. "Emergency custody" means the custody of a child prior to adjudication of the child following issuance of an order of the district court pursuant to Section 1-4-201 of this title or following issuance of an order of the district court pursuant to an emergency custody hearing, as specified by Section 1-4-203 of this title;

25. "Facility" means a place, an institution, a building or part thereof, a set of buildings, or an area whether or not enclosing a building or set of buildings used for the lawful custody and treatment of children;

26. "Failure to protect" means failure to take reasonable action to remedy or prevent child abuse or neglect, and includes the conduct of a non-abusing parent or guardian who knows the identity of the abuser or the person neglecting the child, but lies, conceals or fails to report the child abuse or neglect or otherwise take reasonable action to end the abuse or neglect;

27. "Foster care" or "foster care services" means continuous twenty-four-hour care and supportive services provided for a child in foster placement including, but not limited to, the care, supervision, guidance, and rearing of a foster child by the foster parent;

28. "Foster family home" means the private residence of a foster parent who provides foster care services to a child. Such term shall include a nonkinship foster family home, a therapeutic foster family home, or the home of a relative or other kinship care home;

29. "Foster parent eligibility assessment" includes a criminal background investigation including, but not limited to, a national criminal history records search based upon the submission of fingerprints, home assessments, and any other assessment required by the Department of Human Services, the Office of Juvenile Affairs, or any child-placing agency pursuant to the provisions of the Oklahoma Child Care Facilities Licensing Act;

30. "Guardian ad litem" means a person appointed by the court pursuant to the provisions of Section 1-4-306 of this title having those duties and responsibilities as set forth in that section. The term "guardian ad litem" shall refer to a court-appointed special advocate as well as to any other person appointed pursuant to the provisions of Section 1-4-306 of this title to serve as a guardian ad litem;

31. "Guardian ad litem of the estate of the child" means a person appointed by the court to protect the property interests of a child pursuant to Section 1-8-108 of this title;

32. "Group home" means a residential facility licensed by the Department to provide full-time care and community-based services for more than five but fewer than thirteen children;

33. "Harm or threatened harm to the health or safety of a child" means any real or threatened physical, mental, or emotional injury or damage to the body or mind that is not accidental including, but not

limited to, sexual abuse, sexual exploitation, neglect, or dependency;

34. "Heinous and shocking abuse" includes, but is not limited to, aggravated physical abuse that results in serious bodily, mental, or emotional injury. "Serious bodily injury" means injury that involves:

- a. a substantial risk of death,
- b. extreme physical pain,
- c. protracted disfigurement,
- d. a loss or impairment of the function of a body member, organ, or mental faculty,
- e. an injury to an internal or external organ or the body,
- f. a bone fracture,
- g. sexual abuse or sexual exploitation,
- h. chronic abuse including, but not limited to, physical, emotional, or sexual abuse, or sexual exploitation which is repeated or continuing,
- i. torture that includes, but is not limited to, inflicting, participating in or assisting in inflicting intense physical or emotional pain upon a child repeatedly over a period of time for the purpose of coercing or terrorizing a child or for the purpose of satisfying the craven, cruel, or prurient desires of the perpetrator or another person, or
- j. any other similar aggravated circumstance;

35. "Heinous and shocking neglect" includes, but is not limited to:

- a. chronic neglect that includes, but is not limited to, a persistent pattern of family functioning in which the caregiver has not met or sustained the basic needs of a child which results in harm to the child,
- b. neglect that has resulted in a diagnosis of the child as a failure to thrive,
- c. an act or failure to act by a parent that results in the death or near death of a child or sibling, serious physical or emotional harm, sexual abuse, sexual exploitation, or presents an imminent risk of serious harm to a child, or
- d. any other similar aggravating circumstance;

36. "Individualized service plan" means a document written pursuant to Section 1-4-704 of this title that has the same meaning as "service plan" or "treatment plan" where those terms are used in the Oklahoma Children's Code;

37. "Infant" means a child who is twelve (12) months of age or younger;

38. "Institution" means a residential facility offering care and treatment for more than twenty residents;

39. a. "Investigation" means a response to an allegation of abuse or neglect that involves a serious and immediate threat to the safety of the child, making it necessary to determine:
- (1) the current safety of a child and the risk of subsequent abuse or neglect, and
  - (2) whether child abuse or neglect occurred and whether the family needs prevention- and intervention-related services.
- b. "Investigation" results in a written response stating one of the following findings:
- (1) "substantiated" means the Department has determined, after an investigation of a report of child abuse or neglect and based upon some credible evidence, that child abuse or neglect has occurred. When child abuse or neglect is substantiated, the Department may recommend:
    - (a) court intervention if the Department finds the health, safety, or welfare of the child is threatened, or
    - (b) child abuse and neglect prevention- and intervention-related services for the child, parents or persons responsible for the care of the child if court intervention is not determined to be necessary,
  - (2) "unsubstantiated" means the Department has determined, after an investigation of a report of child abuse or neglect, that insufficient evidence exists to fully determine whether child abuse or neglect has occurred. If child abuse or neglect is unsubstantiated, the Department may recommend, when determined to be necessary, that the parents or persons responsible for the care of the child obtain child abuse and neglect prevention- and intervention-related services, or
  - (3) "ruled out" means a report in which a child protective services specialist has determined, after an investigation of a report of child abuse or neglect, that no child abuse or neglect has occurred;

40. "Kinship care" means full-time care of a child by a kinship relation;

41. "Kinship guardianship" means a permanent guardianship as defined in this section;

42. "Kinship relation" or "kinship relationship" means relatives, stepparents, or other responsible adults who have a bond or tie with a child and/or to whom has been ascribed a family

relationship role with the child's parents or the child; provided, however, in cases where the Indian Child Welfare Act applies, the definitions contained in 25 U.S.C., Section 1903 shall control;

43. "Mental health facility" means a mental health or substance abuse treatment facility as defined by the Inpatient Mental Health and Substance Abuse Treatment of Minors Act;

44. "Minor" means the same as the term "child" as defined in this section;

45. "Minor in need of treatment" means a child in need of mental health or substance abuse treatment as defined by the Inpatient Mental Health and Substance Abuse Treatment of Minors Act;

46. "Multidisciplinary child abuse team" means any team established pursuant to Section 1-9-102 of this title of three or more persons who are trained in the prevention, identification, investigation, prosecution, and treatment of physical and sexual child abuse and who are qualified to facilitate a broad range of prevention- and intervention-related services and services related to child abuse. For purposes of this definition, "freestanding" means a team not used by a child advocacy center for its accreditation;

47. "Near death" means a child is in serious or critical condition, as certified by a physician, as a result of abuse or neglect;

48. "Neglect" means:

- a. the failure or omission to provide any of the following:
  - (1) adequate nurturance and affection, food, clothing, shelter, sanitation, hygiene, or appropriate education,
  - (2) medical, dental, or behavioral health care,
  - (3) supervision or appropriate caretakers, or
  - (4) special care made necessary by the physical or mental condition of the child,
- b. the failure or omission to protect a child from exposure to any of the following:
  - (1) the use, possession, sale, or manufacture of illegal drugs,
  - (2) illegal activities, or
  - (3) sexual acts or materials that are not age-appropriate, or
- c. abandonment.

Nothing in this paragraph shall be construed to mean a child is abused or neglected for the sole reason the parent, legal guardian or person having custody or control of a child, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the tenets and practice of a recognized church or religious denomination, for the treatment or cure of disease or remedial care of such child. Nothing contained in this paragraph shall prevent a

court from immediately assuming custody of a child, pursuant to the Oklahoma Children's Code, and ordering whatever action may be necessary, including medical treatment, to protect the child's health or welfare;

49. "Permanency hearing" means a hearing by the court pursuant to Section 1-4-811 of this title;

50. "Permanent custody" means the court-ordered custody of an adjudicated deprived child when a parent-child relationship no longer exists due to termination of parental rights or due to the death of a parent or parents;

51. "Permanent guardianship" means a judicially created relationship between a child, a kinship relation of the child, or other adult established pursuant to the provisions of Section 1-4-709 of this title;

52. "Person responsible for a child's health, safety, or welfare" includes a parent; a legal guardian; custodian; a foster parent; a person eighteen (18) years of age or older with whom the child's parent cohabitates or any other adult residing in the home of the child; an agent or employee of a public or private residential home, institution, facility or day treatment program as defined in Section 175.20 of Title 10 of the Oklahoma Statutes; or an owner, operator, or employee of a child care facility as defined by Section 402 of Title 10 of the Oklahoma Statutes;

53. "Plan of safe care" means a plan developed for an infant with Neonatal Abstinence Syndrome or a Fetal Alcohol Spectrum Disorder upon release from the care of a health care provider that addresses the health and substance use treatment needs of the infant and mother or caregiver;

54. "Protective custody" means custody of a child taken by a law enforcement officer or designated employee of the court without a court order;

55. "Putative father" means an alleged father as that term is defined in Section 7700-102 of Title 10 of the Oklahoma Statutes;

56. "Qualified residential treatment program" means a program that:

- a. has a trauma-informed treatment model that is designed to address the needs including clinical needs as appropriate, of children with serious emotional or behavioral disorders or disturbances and, with respect to a child, is able to implement the treatment identified for the child from a required assessment,
- b. has registered or licensed nursing staff and other licensed clinical staff who:
  - (1) provide care within the scope of their practice as defined by the laws of this state,

- (2) are on-site according to the treatment model referred to in subparagraph a of this paragraph, and
- (3) are available twenty-four (24) hours a day and seven (7) days a week,
- c. to the extent appropriate, and in accordance with the child's best interest, facilitates participation of family members in the child's treatment program,
- d. facilitates outreach to the family members of the child including siblings, documents how the outreach is made including contact information, and maintains contact information for any known biological family of the child,
- e. documents how family members are integrated into the treatment process for the child including post-discharge, and how sibling connections are maintained,
- f. provides discharge planning and family-based aftercare support for at least 6 months post-discharge, and
- g. is licensed and accredited by any of the following independent, not-for-profit organizations:
  - (1) The Commission on Accreditation of Rehabilitation Facilities (CARF),
  - (2) The Joint Commission on Accreditation of Healthcare Organizations (JCAHO),
  - (3) The Council on Accreditation (COA), or
  - (4) any other federally approved independent, not-for-profit accrediting organization;

57. "Reasonable and prudent parent standard" means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child. This standard shall be used by the child's caregiver when determining whether to allow a child to participate in extracurricular, enrichment, cultural, and social activities. For purposes of this definition, the term "caregiver" means a foster parent with whom a child in foster care has been placed, a representative of a group home where a child has been placed or a designated official for a residential child care facility where a child in foster care has been placed;

58. "Relative" means a grandparent, great-grandparent, brother or sister of whole or half blood, aunt, uncle or any other person related to the child;

59. "Residential child care facility" means a twenty-four-hour residential facility where children live together with or are supervised by adults who are not their parents or relatives;

60. "Review hearing" means a hearing by the court pursuant to Section 1-4-807 of this title;

61. "Risk" means the likelihood that an incident of child abuse or neglect will occur in the future;

62. "Safety threat" means the threat of serious harm due to child abuse or neglect occurring in the present or in the very near future and without the intervention of another person, a child would likely or in all probability sustain severe or permanent disability or injury, illness, or death;

63. "Safety analysis" means action taken by the Department in response to a report of alleged child abuse or neglect that may include an assessment or investigation based upon an analysis of the information received according to priority guidelines and other criteria adopted by the Department;

64. "Safety evaluation" means evaluation of a child's situation by the Department using a structured, evidence-based tool to determine if the child is subject to a safety threat;

65. "Secure facility" means a facility which is designed and operated to ensure that all entrances and exits from the facility are subject to the exclusive control of the staff of the facility, whether or not the juvenile being detained has freedom of movement within the perimeter of the facility, or a facility which relies on locked rooms and buildings, fences, or physical restraint in order to control behavior of its residents;

66. "Sibling" means a biologically or legally related brother or sister of a child. This includes an individual who satisfies at least one of the following conditions with respect to a child:

- a. the individual is considered by state law to be a sibling of the child, or
- b. the individual would have been considered a sibling under state law but for a termination or other disruption of parental rights, such as the death of a parent;

67. "Specialized foster care" means foster care provided to a child in a foster home or agency-contracted home which:

- a. has been certified by the Developmental Disabilities Services Division of the Department of Human Services,
- b. is monitored by the Division, and
- c. is funded through the Home- and Community-Based Waiver Services Program administered by the Division;

68. "Successful adulthood program" means a program specifically designed to assist a child to enhance those skills and abilities necessary for successful adult living. A successful adulthood program may include, but shall not be limited to, such features as minimal direct staff supervision, and the provision of supportive services to assist children with activities necessary for finding an appropriate place of residence, completing an education or vocational training, obtaining employment, or obtaining other similar services;

69. "Temporary custody" means court-ordered custody of an adjudicated deprived child;

70. "Therapeutic foster family home" means a foster family home which provides specific treatment services, pursuant to a therapeutic foster care contract, which are designed to remedy social and behavioral problems of a foster child residing in the home;

71. "Trafficking in persons" means sex trafficking or severe forms of trafficking in persons as described in Section 7102 of Title 22 of the United States Code:

- a. "sex trafficking" means the recruitment, harboring, transportation, provision, obtaining, patronizing or soliciting of a person for the purpose of a commercial sex act, and
- b. "severe forms of trafficking in persons" means:
  - (1) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained eighteen (18) years of age, or
  - (2) the recruitment, harboring, transportation, provision, obtaining, patronizing or soliciting of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery;

72. "Transitional living program" means a residential program that may be attached to an existing facility or operated solely for the purpose of assisting children to develop the skills and abilities necessary for successful adult living. The program may include, but shall not be limited to, reduced staff supervision, vocational training, educational services, employment and employment training, and other appropriate independent living skills training as a part of the transitional living program; and

73. "Voluntary foster care placement" means the temporary placement of a child by the parent, legal guardian or custodian of the child in foster care pursuant to a signed placement agreement between the Department or a child-placing agency and the child's parent, legal guardian or custodian.

Added by Laws 1968, c. 282, § 101, eff. Jan. 13, 1969. Amended by Laws 1970, c. 86, § 1, emerg. eff. March 27, 1970; Laws 1972, c. 122, § 1, emerg. eff. April 4, 1972; Laws 1977, c. 79, § 1; Laws 1979, c. 257, § 1, eff. Oct. 1, 1979; Laws 1980, c. 242, § 1, eff. Oct. 1, 1980; Laws 1982, c. 312, § 13, operative Oct. 1, 1982; Laws 1984, c. 120, § 1, emerg. eff. April 10, 1984; Laws 1987, c. 88, § 1, operative July 1, 1987; Laws 1988, c. 76, § 1, emerg. eff. March 25, 1988; Laws 1988, c. 238, § 1, emerg. eff. June 24, 1988; Laws 1990, c. 238, § 1, emerg. eff. May 21, 1990; Laws 1990, c. 337, § 1; Laws 1991, c. 335, § 1, emerg. eff. June 15, 1991; Laws 1992, c. 298, §

14, eff. July 1, 1993; Laws 1993, c. 342, § 1, eff. July 1, 1993; Laws 1994, c. 2, § 1, emerg. eff. March 2, 1994; Laws 1994, c. 290, § 3, eff. July 1, 1994; Laws 1995, c. 352, § 3, eff. July 1, 1995. Renumbered from § 1101 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1996, c. 47, § 1, emerg. eff. April 8, 1996; Laws 1996, c. 200, § 3, eff. Nov. 1, 1996; Laws 1996, c. 353, § 15, eff. Nov. 1, 1996; Laws 1997, c. 386, § 19, emerg. eff. June 10, 1997; Laws 1998, c. 5, § 2, emerg. eff. March 4, 1998; Laws 1998, c. 421, § 2, emerg. eff. June 11, 1998; Laws 2000, c. 374, § 5, eff. July 1, 2000; Laws 2001, c. 434, § 4, emerg. eff. June 8, 2001; Laws 2002, c. 327, § 15, eff. July 1, 2002; Laws 2004, c. 422, § 3, eff. July 1, 2004; Laws 2006, c. 258, § 1, emerg. eff. June 7, 2006; Laws 2009, c. 233, § 11, emerg. eff. May 21, 2009. Renumbered from § 7001-1.3 of Title 10 by Laws 2009, c. 233, § 211, emerg. eff. May 21, 2009. Amended by Laws 2009, c. 338, § 3, eff. July 1, 2009; Laws 2012, c. 91, § 1, eff. Nov. 1, 2012; Laws 2012, c. 353, § 3, emerg. eff. June 8, 2012; Laws 2015, c. 55, § 1, eff. Nov. 1, 2015; Laws 2015, c. 173, § 1, eff. Nov. 1, 2015; Laws 2016, c. 210, § 1, emerg. eff. April 26, 2016; Laws 2017, c. 254, § 1, eff. Nov. 1, 2017; Laws 2017, c. 342, § 1, eff. Nov. 1, 2017; Laws 2018, c. 256, § 1, emerg. eff. May 8, 2018; Laws 2019, c. 250, § 1, eff. Nov. 1, 2019. NOTE: Laws 1979, c. 248, § 1 repealed by Laws 1980, c. 242, § 2, eff. Oct. 1, 1980. Laws 1990, c. 51, § 5 repealed by Laws 1990, c. 337, § 26. Laws 1990, c. 302, § 1 repealed by Laws 1991, c. 335, § 36, emerg. eff. June 15, 1991. Laws 1993, c. 208, § 1 repealed by Laws 1994, c. 2, § 34, emerg. eff. March 2, 1994. Laws 1995, c. 270, § 4 repealed by Laws 1996, c. 47, § 4, emerg. eff. April 8, 1996. Laws 1997, c. 153, § 1 repealed by Laws 1998, c. 5, § 29, emerg. eff. March 4, 1998. Laws 2015, c. 274, § 1 repealed by Laws 2016, c. 210, § 2, emerg. eff. April 26, 2016.

§10A-1-1-105v2. Definitions.

When used in the Oklahoma Children's Code, unless the context otherwise requires:

1. "Abandonment" means:

- a. the willful intent by words, actions, or omissions not to return for a child, or
- b. the failure to maintain a significant parental relationship with a child through visitation or communication in which incidental or token visits or communication are not considered significant, or
- c. the failure to respond to notice of deprived proceedings;

2. "Abuse" means harm or threatened harm to the health, safety, or welfare of a child by a person responsible for the child's health, safety, or welfare, including but not limited to nonaccidental physical or mental injury, sexual abuse, or sexual exploitation.

Provided, however, that nothing contained in the Oklahoma Children's Code shall prohibit any parent from using ordinary force as a means of discipline including, but not limited to, spanking, switching, or paddling.

- a. "Harm or threatened harm to the health or safety of a child" means any real or threatened physical, mental, or emotional injury or damage to the body or mind that is not accidental including but not limited to sexual abuse, sexual exploitation, neglect, or dependency.
  - b. "Sexual abuse" includes but is not limited to rape, incest, and lewd or indecent acts or proposals made to a child, as defined by law, by a person responsible for the health, safety, or welfare of the child.
  - c. "Sexual exploitation" includes but is not limited to allowing, permitting, encouraging, or forcing a child to engage in prostitution, as defined by law, by any person eighteen (18) years of age or older or by a person responsible for the health, safety, or welfare of a child, or allowing, permitting, encouraging, or engaging in the lewd, obscene, or pornographic, as defined by law, photographing, filming, or depicting of a child in those acts by a person responsible for the health, safety, and welfare of the child;
3. "Adjudication" means a finding by the court that the allegations in a petition alleging that a child is deprived are supported by a preponderance of the evidence;
4. "Adjudicatory hearing" means a hearing by the court as provided by Section 1-4-601 of this title;
5. "Age-appropriate or developmentally appropriate" means:
- a. activities or items that are generally accepted as suitable for children of the same age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group, and
  - b. in the case of a specific child, activities or items that are suitable for that child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the specific child.

In the event that any age-related activities have implications relative to the academic curriculum of a child, nothing in this paragraph shall be construed to authorize an officer or employee of the federal government to mandate, direct, or control a state or local educational agency, or the specific instructional content,

academic achievement standards and assessments, curriculum, or program of instruction of a school;

6. "Assessment" means a comprehensive review of child safety and evaluation of family functioning and protective capacities that is conducted in response to a child abuse or neglect referral that does not allege a serious and immediate safety threat to a child;

7. "Behavioral health" means mental health, substance abuse, or co-occurring mental health and substance abuse diagnoses, and the continuum of mental health, substance abuse, or co-occurring mental health and substance abuse treatment;

8. "Child" means any unmarried person under eighteen (18) years of age;

9. "Child advocacy center" means a center and the multidisciplinary child abuse team of which it is a member that is accredited by the National Children's Alliance or that is completing a sixth year of reaccreditation. Child advocacy centers shall be classified, based on the child population of a district attorney's district, as follows:

- a. nonurban centers in districts with child populations that are less than sixty thousand (60,000), and
- b. midlevel nonurban centers in districts with child populations equal to or greater than sixty thousand (60,000), but not including Oklahoma and Tulsa counties;

10. "Child with a disability" means any child who has a physical or mental impairment which substantially limits one or more of the major life activities of the child, or who is regarded as having such an impairment by a competent medical professional;

11. "Child-placing agency" means an agency that arranges for or places a child in a foster family home, family-style residential program, group home, adoptive home, or a successful adulthood program;

12. "Children's emergency resource center" means a community-based program that may provide emergency care and a safe and structured homelike environment or a host home for children providing food, clothing, shelter and hygiene products to each child served; after-school tutoring; counseling services; life-skills training; transition services; assessments; family reunification; respite care; transportation to or from school, doctors' appointments, visitations and other social, school, court or other activities when necessary; and a stable environment for children in crisis who are in custody of the Department of Human Services if permitted under the Department's policies and regulations, or who have been voluntarily placed by a parent or custodian during a temporary crisis;

13. "Community-based services" or "community-based programs" means services or programs which maintain community participation or supervision in their planning, operation, and evaluation. Community-

based services and programs may include, but are not limited to, emergency shelter, crisis intervention, group work, case supervision, job placement, recruitment and training of volunteers, consultation, medical, educational, home-based services, vocational, social, preventive and psychological guidance, training, counseling, early intervention and diversionary substance abuse treatment, sexual abuse treatment, transitional living, independent living, and other related services and programs;

14. "Concurrent permanency planning" means, when indicated, the implementation of two plans for a child entering foster care. One plan focuses on reuniting the parent and child; the other seeks to find a permanent out-of-home placement for the child with both plans being pursued simultaneously;

15. "Court-appointed special advocate" or "CASA" means a responsible adult volunteer who has been trained and is supervised by a court-appointed special advocate program recognized by the court, and when appointed by the court, serves as an officer of the court in the capacity as a guardian ad litem;

16. "Court-appointed special advocate program" means an organized program, administered by either an independent, not-for-profit corporation, a dependent project of an independent, not-for-profit corporation or a unit of local government, which recruits, screens, trains, assigns, supervises and supports volunteers to be available for appointment by the court as guardians ad litem;

17. "Custodian" means an individual other than a parent, legal guardian or Indian custodian, to whom legal custody of the child has been awarded by the court. As used in this title, the term "custodian" shall not mean the Department of Human Services;

18. "Day treatment" means a nonresidential program which provides intensive services to a child who resides in the child's own home, the home of a relative, group home, a foster home or residential child care facility. Day treatment programs include, but are not limited to, educational services;

19. "Department" means the Department of Human Services;

20. "Dependency" means a child who is homeless or without proper care or guardianship through no fault of his or her parent, legal guardian, or custodian;

21. "Deprived child" means a child:

- a. who is for any reason destitute, homeless, or abandoned,
- b. who does not have the proper parental care or guardianship,
- c. who has been abused, neglected, or is dependent,
- d. whose home is an unfit place for the child by reason of depravity on the part of the parent or legal guardian of the child, or other person responsible for the health or welfare of the child,

- e. who is a child in need of special care and treatment because of the child's physical or mental condition, and the child's parents, legal guardian, or other custodian is unable or willfully fails to provide such special care and treatment. As used in this paragraph, a child in need of special care and treatment includes, but is not limited to, a child who at birth tests positive for alcohol or a controlled dangerous substance and who, pursuant to a drug or alcohol screen of the child and an assessment of the parent, is determined to be at risk of harm or threatened harm to the health or safety of a child,
- f. who is a child with a disability deprived of the nutrition necessary to sustain life or of the medical treatment necessary to remedy or relieve a life-threatening medical condition in order to cause or allow the death of the child if such nutrition or medical treatment is generally provided to similarly situated children without a disability or children with disabilities; provided that no medical treatment shall be necessary if, in the reasonable medical judgment of the attending physician, such treatment would be futile in saving the life of the child,
- g. who, due to improper parental care and guardianship, is absent from school as specified in Section 10-106 of Title 70 of the Oklahoma Statutes, if the child is subject to compulsory school attendance,
- h. whose parent, legal guardian or custodian for good cause desires to be relieved of custody,
- i. who has been born to a parent whose parental rights to another child have been involuntarily terminated by the court and the conditions which led to the making of the finding, which resulted in the termination of the parental rights of the parent to the other child, have not been corrected, or
- j. whose parent, legal guardian, or custodian has subjected another child to abuse or neglect or has allowed another child to be subjected to abuse or neglect and is currently a respondent in a deprived proceeding.

Nothing in the Oklahoma Children's Code shall be construed to mean a child is deprived for the sole reason the parent, legal guardian, or person having custody or control of a child, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the tenets and practice of a recognized church or religious denomination, for the treatment or cure of disease or remedial care of such child.

Nothing contained in this paragraph shall prevent a court from immediately assuming custody of a child and ordering whatever action may be necessary, including medical treatment, to protect the child's health or welfare;

22. "Dispositional hearing" means a hearing by the court as provided by Section 1-4-706 of this title;

23. "Drug-endangered child" means a child who is at risk of suffering physical, psychological or sexual harm as a result of the use, possession, distribution, manufacture or cultivation of controlled substances, or the attempt of any of these acts, by a person responsible for the health, safety or welfare of the child, as defined in this section. This term includes circumstances wherein the substance abuse of the person responsible for the health, safety or welfare of the child interferes with that person's ability to parent and provide a safe and nurturing environment for the child;

24. "Emergency custody" means the custody of a child prior to adjudication of the child following issuance of an order of the district court pursuant to Section 1-4-201 of this title or following issuance of an order of the district court pursuant to an emergency custody hearing, as specified by Section 1-4-203 of this title;

25. "Facility" means a place, an institution, a building or part thereof, a set of buildings, or an area whether or not enclosing a building or set of buildings used for the lawful custody and treatment of children;

26. "Failure to protect" means failure to take reasonable action to remedy or prevent child abuse or neglect, and includes the conduct of a non-abusing parent or guardian who knows the identity of the abuser or the person neglecting the child, but lies, conceals or fails to report the child abuse or neglect or otherwise take reasonable action to end the abuse or neglect;

27. "Family-style living program" means a residential program providing sustained care and supervision to residents in a home-like environment not located in a building used for commercial activity;

28. "Foster care" or "foster care services" means continuous twenty-four-hour care and supportive services provided for a child in foster placement including, but not limited to, the care, supervision, guidance, and rearing of a foster child by the foster parent;

29. "Foster family home" means the private residence of a foster parent who provides foster care services to a child. Such term shall include a nonkinship foster family home, a therapeutic foster family home, or the home of a relative or other kinship care home;

30. "Foster parent eligibility assessment" includes a criminal background investigation including, but not limited to, a national criminal history records search based upon the submission of fingerprints, home assessments, and any other assessment required by the Department of Human Services, the Office of Juvenile Affairs, or

any child-placing agency pursuant to the provisions of the Oklahoma Child Care Facilities Licensing Act;

31. "Guardian ad litem" means a person appointed by the court pursuant to the provisions of Section 1-4-306 of this title having those duties and responsibilities as set forth in that section. The term "guardian ad litem" shall refer to a court-appointed special advocate as well as to any other person appointed pursuant to the provisions of Section 1-4-306 of this title to serve as a guardian ad litem;

32. "Guardian ad litem of the estate of the child" means a person appointed by the court to protect the property interests of a child pursuant to Section 1-8-108 of this title;

33. "Group home" means a residential facility licensed by the Department to provide full-time care and community-based services for more than five but fewer than thirteen children;

34. "Harm or threatened harm to the health or safety of a child" means any real or threatened physical, mental, or emotional injury or damage to the body or mind that is not accidental including, but not limited to, sexual abuse, sexual exploitation, neglect, or dependency;

35. "Heinous and shocking abuse" includes, but is not limited to, aggravated physical abuse that results in serious bodily, mental, or emotional injury. "Serious bodily injury" means injury that involves:

- a. a substantial risk of death,
- b. extreme physical pain,
- c. protracted disfigurement,
- d. a loss or impairment of the function of a body member, organ, or mental faculty,
- e. an injury to an internal or external organ or the body,
- f. a bone fracture,
- g. sexual abuse or sexual exploitation,
- h. chronic abuse including, but not limited to, physical, emotional, or sexual abuse, or sexual exploitation which is repeated or continuing,
- i. torture that includes, but is not limited to, inflicting, participating in or assisting in inflicting intense physical or emotional pain upon a child repeatedly over a period of time for the purpose of coercing or terrorizing a child or for the purpose of satisfying the craven, cruel, or prurient desires of the perpetrator or another person, or
- j. any other similar aggravated circumstance;

36. "Heinous and shocking neglect" includes, but is not limited to:

- a. chronic neglect that includes, but is not limited to, a persistent pattern of family functioning in which the

caregiver has not met or sustained the basic needs of a child which results in harm to the child,

- b. neglect that has resulted in a diagnosis of the child as a failure to thrive,
- c. an act or failure to act by a parent that results in the death or near death of a child or sibling, serious physical or emotional harm, sexual abuse, sexual exploitation, or presents an imminent risk of serious harm to a child, or
- d. any other similar aggravating circumstance;

37. "Individualized service plan" means a document written pursuant to Section 1-4-704 of this title that has the same meaning as "service plan" or "treatment plan" where those terms are used in the Oklahoma Children's Code;

38. "Infant" means a child who is twelve (12) months of age or younger;

39. "Institution" means a residential facility offering care and treatment for more than twenty residents;

40. a. "Investigation" means a response to an allegation of abuse or neglect that involves a serious and immediate threat to the safety of the child, making it necessary to determine:

- (1) the current safety of a child and the risk of subsequent abuse or neglect, and
- (2) whether child abuse or neglect occurred and whether the family needs prevention- and intervention-related services.

b. "Investigation" results in a written response stating one of the following findings:

- (1) "substantiated" means the Department has determined, after an investigation of a report of child abuse or neglect and based upon some credible evidence, that child abuse or neglect has occurred. When child abuse or neglect is substantiated, the Department may recommend:
  - (a) court intervention if the Department finds the health, safety, or welfare of the child is threatened, or
  - (b) child abuse and neglect prevention- and intervention-related services for the child, parents or persons responsible for the care of the child if court intervention is not determined to be necessary,
- (2) "unsubstantiated" means the Department has determined, after an investigation of a report of child abuse or neglect, that insufficient evidence exists to fully determine whether child abuse or

neglect has occurred. If child abuse or neglect is unsubstantiated, the Department may recommend, when determined to be necessary, that the parents or persons responsible for the care of the child obtain child abuse and neglect prevention- and intervention-related services, or

- (3) "ruled out" means a report in which a child protective services specialist has determined, after an investigation of a report of child abuse or neglect, that no child abuse or neglect has occurred;

41. "Kinship care" means full-time care of a child by a kinship relation;

42. "Kinship guardianship" means a permanent guardianship as defined in this section;

43. "Kinship relation" or "kinship relationship" means relatives, stepparents, or other responsible adults who have a bond or tie with a child and/or to whom has been ascribed a family relationship role with the child's parents or the child; provided, however, in cases where the Indian Child Welfare Act applies, the definitions contained in 25 U.S.C., Section 1903 shall control;

44. "Mental health facility" means a mental health or substance abuse treatment facility as defined by the Inpatient Mental Health and Substance Abuse Treatment of Minors Act;

45. "Minor" means the same as the term "child" as defined in this section;

46. "Minor in need of treatment" means a child in need of mental health or substance abuse treatment as defined by the Inpatient Mental Health and Substance Abuse Treatment of Minors Act;

47. "Multidisciplinary child abuse team" means any team established pursuant to Section 1-9-102 of this title of three or more persons who are trained in the prevention, identification, investigation, prosecution, and treatment of physical and sexual child abuse and who are qualified to facilitate a broad range of prevention- and intervention-related services and services related to child abuse. For purposes of this definition, "freestanding" means a team not used by a child advocacy center for its accreditation;

48. "Near death" means a child is in serious or critical condition, as certified by a physician, as a result of abuse or neglect;

49. "Neglect" means:

- a. the failure or omission to provide any of the following:
  - (1) adequate nurturance and affection, food, clothing, shelter, sanitation, hygiene, or appropriate education,
  - (2) medical, dental, or behavioral health care,

- (3) supervision or appropriate caretakers, or
  - (4) special care made necessary by the physical or mental condition of the child,
- b. the failure or omission to protect a child from exposure to any of the following:
- (1) the use, possession, sale, or manufacture of illegal drugs,
  - (2) illegal activities, or
  - (3) sexual acts or materials that are not age-appropriate, or
- c. abandonment.

Nothing in this paragraph shall be construed to mean a child is abused or neglected for the sole reason the parent, legal guardian or person having custody or control of a child, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the tenets and practice of a recognized church or religious denomination, for the treatment or cure of disease or remedial care of such child. Nothing contained in this paragraph shall prevent a court from immediately assuming custody of a child, pursuant to the Oklahoma Children's Code, and ordering whatever action may be necessary, including medical treatment, to protect the child's health or welfare;

50. "Permanency hearing" means a hearing by the court pursuant to Section 1-4-811 of this title;

51. "Permanent custody" means the court-ordered custody of an adjudicated deprived child when a parent-child relationship no longer exists due to termination of parental rights or due to the death of a parent or parents;

52. "Permanent guardianship" means a judicially created relationship between a child, a kinship relation of the child, or other adult established pursuant to the provisions of Section 1-4-709 of this title;

53. "Person responsible for a child's health, safety, or welfare" includes a parent; a legal guardian; custodian; a foster parent; a person eighteen (18) years of age or older with whom the child's parent cohabitates or any other adult residing in the home of the child; an agent or employee of a public or private residential home, institution, facility or day treatment program as defined in Section 175.20 of Title 10 of the Oklahoma Statutes; or an owner, operator, or employee of a child care facility as defined by Section 402 of Title 10 of the Oklahoma Statutes;

54. "Plan of safe care" means a plan developed for an infant with Neonatal Abstinence Syndrome or a Fetal Alcohol Spectrum Disorder upon release from the care of a health care provider that addresses the health and substance use treatment needs of the infant and mother or caregiver;

55. "Protective custody" means custody of a child taken by a law enforcement officer or designated employee of the court without a court order;

56. "Putative father" means an alleged father as that term is defined in Section 7700-102 of Title 10 of the Oklahoma Statutes;

57. "Reasonable and prudent parent standard" means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child. This standard shall be used by the child's caregiver when determining whether to allow a child to participate in extracurricular, enrichment, cultural, and social activities. For purposes of this definition, the term "caregiver" means a foster parent with whom a child in foster care has been placed, a representative of a group home where a child has been placed or a designated official for a residential child care facility where a child in foster care has been placed;

58. "Relative" means a grandparent, great-grandparent, brother or sister of whole or half blood, aunt, uncle or any other person related to the child;

59. "Residential child care facility" means a twenty-four-hour residential facility where children live together with or are supervised by adults who are not their parents or relatives;

60. "Review hearing" means a hearing by the court pursuant to Section 1-4-807 of this title;

61. "Risk" means the likelihood that an incident of child abuse or neglect will occur in the future;

62. "Safety threat" means the threat of serious harm due to child abuse or neglect occurring in the present or in the very near future and without the intervention of another person, a child would likely or in all probability sustain severe or permanent disability or injury, illness, or death;

63. "Safety analysis" means action taken by the Department in response to a report of alleged child abuse or neglect that may include an assessment or investigation based upon an analysis of the information received according to priority guidelines and other criteria adopted by the Department;

64. "Safety evaluation" means evaluation of a child's situation by the Department using a structured, evidence-based tool to determine if the child is subject to a safety threat;

65. "Secure facility" means a facility which is designed and operated to ensure that all entrances and exits from the facility are subject to the exclusive control of the staff of the facility, whether or not the juvenile being detained has freedom of movement within the perimeter of the facility, or a facility which relies on locked rooms and buildings, fences, or physical restraint in order to control behavior of its residents;

66. "Sibling" means a biologically or legally related brother or sister of a child. This includes an individual who satisfies at least one of the following conditions with respect to a child:

- a. the individual is considered by state law to be a sibling of the child, or
- b. the individual would have been considered a sibling under state law but for a termination or other disruption of parental rights, such as the death of a parent;

67. "Specialized foster care" means foster care provided to a child in a foster home or agency-contracted home which:

- a. has been certified by the Developmental Disabilities Services Division of the Department of Human Services,
- b. is monitored by the Division, and
- c. is funded through the Home- and Community-Based Waiver Services Program administered by the Division;

68. "Successful adulthood program" means a program specifically designed to assist a child to enhance those skills and abilities necessary for successful adult living. A successful adulthood program may include, but shall not be limited to, such features as minimal direct staff supervision, and the provision of supportive services to assist children with activities necessary for finding an appropriate place of residence, completing an education or vocational training, obtaining employment, or obtaining other similar services;

69. "Temporary custody" means court-ordered custody of an adjudicated deprived child;

70. "Therapeutic foster family home" means a foster family home which provides specific treatment services, pursuant to a therapeutic foster care contract, which are designed to remedy social and behavioral problems of a foster child residing in the home;

71. "Trafficking in persons" means sex trafficking or severe forms of trafficking in persons as described in Section 7102 of Title 22 of the United States Code:

- a. "sex trafficking" means the recruitment, harboring, transportation, provision, obtaining, patronizing or soliciting of a person for the purpose of a commercial sex act, and
- b. "severe forms of trafficking in persons" means:
  - (1) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained eighteen (18) years of age, or
  - (2) the recruitment, harboring, transportation, provision, obtaining, patronizing or soliciting of a person for labor or services, through the use of force, fraud, or coercion for the purpose of

subjection to involuntary servitude, peonage, debt bondage, or slavery;

72. "Transitional living program" means a residential program that may be attached to an existing facility or operated solely for the purpose of assisting children to develop the skills and abilities necessary for successful adult living. The program may include, but shall not be limited to, reduced staff supervision, vocational training, educational services, employment and employment training, and other appropriate independent living skills training as a part of the transitional living program; and

73. "Voluntary foster care placement" means the temporary placement of a child by the parent, legal guardian or custodian of the child in foster care pursuant to a signed placement agreement between the Department or a child-placing agency and the child's parent, legal guardian or custodian.

Added by Laws 1968, c. 282, § 101, eff. Jan. 13, 1969. Amended by Laws 1970, c. 86, § 1, emerg. eff. March 27, 1970; Laws 1972, c. 122, § 1, emerg. eff. April 4, 1972; Laws 1977, c. 79, § 1; Laws 1979, c. 257, § 1, eff. Oct. 1, 1979; Laws 1980, c. 242, § 1, eff. Oct. 1, 1980; Laws 1982, c. 312, § 13, operative Oct. 1, 1982; Laws 1984, c. 120, § 1, emerg. eff. April 10, 1984; Laws 1987, c. 88, § 1, operative July 1, 1987; Laws 1988, c. 76, § 1, emerg. eff. March 25, 1988; Laws 1988, c. 238, § 1, emerg. eff. June 24, 1988; Laws 1990, c. 238, § 1, emerg. eff. May 21, 1990; Laws 1990, c. 337, § 1; Laws 1991, c. 335, § 1, emerg. eff. June 15, 1991; Laws 1992, c. 298, § 14, eff. July 1, 1993; Laws 1993, c. 342, § 1, eff. July 1, 1993; Laws 1994, c. 2, § 1, emerg. eff. March 2, 1994; Laws 1994, c. 290, § 3, eff. July 1, 1994; Laws 1995, c. 352, § 3, eff. July 1, 1995. Renumbered from § 1101 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1996, c. 47, § 1, emerg. eff. April 8, 1996; Laws 1996, c. 200, § 3, eff. Nov. 1, 1996; Laws 1996, c. 353, § 15, eff. Nov. 1, 1996; Laws 1997, c. 386, § 19, emerg. eff. June 10, 1997; Laws 1998, c. 5, § 2, emerg. eff. March 4, 1998; Laws 1998, c. 421, § 2, emerg. eff. June 11, 1998; Laws 2000, c. 374, § 5, eff. July 1, 2000; Laws 2001, c. 434, § 4, emerg. eff. June 8, 2001; Laws 2002, c. 327, § 15, eff. July 1, 2002; Laws 2004, c. 422, § 3, eff. July 1, 2004; Laws 2006, c. 258, § 1, emerg. eff. June 7, 2006; Laws 2009, c. 233, § 11, emerg. eff. May 21, 2009. Renumbered from § 7001-1.3 of Title 10 by Laws 2009, c. 233, § 211, emerg. eff. May 21, 2009. Amended by Laws 2009, c. 338, § 3, eff. July 1, 2009; Laws 2012, c. 91, § 1, eff. Nov. 1, 2012; Laws 2012, c. 353, § 3, emerg. eff. June 8, 2012; Laws 2015, c. 55, § 1, eff. Nov. 1, 2015; Laws 2015, c. 173, § 1, eff. Nov. 1, 2015; Laws 2016, c. 210, § 1, emerg. eff. April 26, 2016; Laws 2017, c. 254, § 1, eff. Nov. 1, 2017; Laws 2017, c. 342, § 1, eff. Nov. 1, 2017; Laws 2018, c. 256, § 1, emerg. eff. May 8, 2018; Laws 2019, c. 297, § 1, eff. Nov. 1, 2019.

NOTE: Laws 1979, c. 248, § 1 repealed by Laws 1980, c. 242, § 2, eff. Oct. 1, 1980. Laws 1990, c. 51, § 5 repealed by Laws 1990, c. 337, § 26. Laws 1990, c. 302, § 1 repealed by Laws 1991, c. 335, § 36, emerg. eff. June 15, 1991. Laws 1993, c. 208, § 1 repealed by Laws 1994, c. 2, § 34, emerg. eff. March 2, 1994. Laws 1995, c. 270, § 4 repealed by Laws 1996, c. 47, § 4, emerg. eff. April 8, 1996. Laws 1997, c. 153, § 1 repealed by Laws 1998, c. 5, § 29, emerg. eff. March 4, 1998. Laws 2015, c. 274, § 1 repealed by Laws 2016, c. 210, § 2, emerg. eff. April 26, 2016.

§10A-1-2-101. Establishment of statewide centralized hotline for reporting child abuse or neglect - Hotline requirements - Reporting abuse or neglect - Retaliation by employer - Violations.

A. 1. The Department of Human Services shall establish a statewide centralized hotline for the reporting of child abuse or neglect to the Department.

2. The Department shall provide hotline-specific training including, but not limited to, interviewing skills, customer service skills, narrative writing, necessary computer systems, making case determinations, and identifying priority situations.

3. The Department is authorized to contract with third parties in order to train hotline workers.

4. The Department shall develop a system to track the number of calls received, and of that number:

- a. the number of calls screened out,
- b. the number of referrals assigned,
- c. the number of calls received by persons unwilling to disclose basic personal information including, but not limited to, first and last name, and
- d. the number of calls in which the allegations were later found to be unsubstantiated or ruled out.

5. The Department shall electronically record each referral received by the hotline and establish a secure means of retaining the recordings for twelve (12) months. The recordings shall be confidential and subject to disclosure only if a court orders the disclosure of the referral. The Department shall redact any information identifying the reporting party unless otherwise ordered by the court.

B. 1. Every person having reason to believe that a child under the age of eighteen (18) years is a victim of abuse or neglect shall report the matter immediately to the Department of Human Services. Reports shall be made to the hotline provided for in subsection A of this section. Any allegation of abuse or neglect reported in any manner to a county office shall immediately be referred to the hotline by the Department. Provided, however, that in actions for custody by abandonment, provided for in Section 2-117 of Title 30 of the Oklahoma Statutes, there shall be no reporting requirement.

2. a. Every school employee having reason to believe that a student under the age of eighteen (18) years is a victim of abuse or neglect shall report the matter immediately to the Department of Human Services and local law enforcement. Reports to the Department shall be made to the hotline provided for in subsection A of this section. Any allegation of abuse or neglect reported in any manner to a county office shall immediately be referred to the hotline by the Department. Provided, however, that in actions for custody by abandonment, provided for in Section 2-117 of Title 30 of the Oklahoma Statutes, there shall be no reporting requirement.
- b. Every school employee having reason to believe that a student age eighteen (18) years or older is a victim of abuse or neglect shall report the matter immediately to local law enforcement.
- c. In reports required by subparagraph a or b of this paragraph, local law enforcement shall keep confidential and redact any information identifying the reporting school employee unless otherwise ordered by the court. A school employee with knowledge of a report required by subparagraph a or b of this paragraph shall not disclose information identifying the reporting school employee unless otherwise ordered by the court or as part of an investigation by local law enforcement or the Department.

3. Every physician, surgeon, or other health care professional including doctors of medicine, licensed osteopathic physicians, residents and interns, or any other health care professional or midwife involved in the prenatal care of expectant mothers or the delivery or care of infants shall promptly report to the Department instances in which an infant tests positive for alcohol or a controlled dangerous substance. This shall include infants who are diagnosed with Neonatal Abstinence Syndrome or Fetal Alcohol Spectrum Disorder.

4. No privilege or contract shall relieve any person from the requirement of reporting pursuant to this section.

5. The reporting obligations under this section are individual, and no employer, supervisor, administrator, governing body or entity shall interfere with the reporting obligations of any employee or other person or in any manner discriminate or retaliate against the employee or other person who in good faith reports suspected child abuse or neglect, or who provides testimony in any proceeding involving child abuse or neglect. Any employer, supervisor, administrator, governing body or entity who discharges, discriminates or retaliates against the employee or other person shall be liable

for damages, costs and attorney fees. If a child who is the subject of the report or other child is harmed by the discharge, discrimination or retaliation described in this paragraph, the party harmed may file an action to recover damages, costs and attorney fees.

6. Every physician, surgeon, other health care professional or midwife making a report of abuse or neglect as required by this subsection or examining a child to determine the likelihood of abuse or neglect and every hospital or related institution in which the child was examined or treated shall provide, upon request, copies of the results of the examination or copies of the examination on which the report was based and any other clinical notes, x-rays, photographs, and other previous or current records relevant to the case to law enforcement officers conducting a criminal investigation into the case and to employees of the Department of Human Services conducting an investigation of alleged abuse or neglect in the case.

C. Any person who knowingly and willfully fails to promptly report suspected child abuse or neglect or who interferes with the prompt reporting of suspected child abuse or neglect may be reported to local law enforcement for criminal investigation and, upon conviction thereof, shall be guilty of a misdemeanor. Any person with prolonged knowledge of ongoing child abuse or neglect who knowingly and willfully fails to promptly report such knowledge may be reported to local law enforcement for criminal investigation and, upon conviction thereof, shall be guilty of a felony. For the purposes of this paragraph, "prolonged knowledge" shall mean knowledge of at least six (6) months of child abuse or neglect.

D. 1. Any person who knowingly and willfully makes a false report pursuant to the provisions of this section or a report that the person knows lacks factual foundation may be reported to local law enforcement for criminal investigation and, upon conviction thereof, shall be guilty of a misdemeanor.

2. If a court determines that an accusation of child abuse or neglect made during a child custody proceeding is false and the person making the accusation knew it to be false at the time the accusation was made, the court may impose a fine, not to exceed Five Thousand Dollars (\$5,000.00) and reasonable attorney fees incurred in recovering the sanctions, against the person making the accusation. The remedy provided by this paragraph is in addition to paragraph 1 of this subsection or to any other remedy provided by law.

E. Nothing contained in this section shall be construed to exempt or prohibit any person from reporting any suspected child abuse or neglect pursuant to subsection B of this section. Added by Laws 1965, c. 43, § 2, emerg. eff. March 18, 1965. Amended by Laws 1972, c. 236, § 1, emerg. eff. April 7, 1972; Laws 1975, c. 98, § 2, emerg. eff. April 30, 1975; Laws 1977, c. 172, § 2, eff. Oct. 1, 1977; Laws 1980, c. 107, § 1, eff. Oct. 1, 1980; Laws 1985,

c. 66, § 1, eff. Nov. 1, 1985; Laws 1986, c. 263, § 5, operative July 1, 1986; Laws 1987, c. 88, § 2, operative July 1, 1987; Laws 1987, c. 167, § 1, operative July 1, 1987; Laws 1992, c. 265, § 2, emerg. eff. May 25, 1992; Laws 1993, c. 208, § 4, eff. Sept. 1, 1993; Laws 1994, c. 324, § 1, eff. Sept. 1, 1994; Laws 1995, c. 353, § 3, eff. Nov. 1, 1995. Renumbered from § 846 of Title 21 by Laws 1995, c. 353, § 20, eff. Nov. 1, 1995. Amended by Laws 1998, c. 416, § 12, eff. Nov. 1, 1998; Laws 2000, c. 374, § 31, eff. July 1, 2000; Laws 2009, c. 149, § 1, emerg. eff. May 11, 2009; Laws 2009, c. 233, § 79, emerg. eff. May 21, 2009. Renumbered from § 7103 of Title 10 by Laws 2009, c. 233, § 212, emerg. eff. May 21, 2009. Amended by Laws 2009, c. 338, § 10, eff. July 1, 2009; Laws 2010, c. 358, § 2, emerg. eff. June 7, 2010; Laws 2013, c. 374, § 1, eff. Nov. 1, 2013; Laws 2015, c. 186, § 1, eff. Nov. 1, 2015; Laws 2016, c. 62, § 1, eff. Nov. 1, 2016; Laws 2018, c. 277, § 1, eff. Nov. 1, 2018; Laws 2019, c. 25, § 5, emerg. eff. April 4, 2019; Laws 2019, c. 415, § 1, eff. July 1, 2019.  
NOTE: Laws 2018, c. 256, § 2 repealed by Laws 2019, c. 25, § 6, emerg. eff. April 4, 2019.

§10A-1-2-102. See the following versions:

- OS 10A-1-2-102v1 (HB 2491, Laws 2016, c. 130, § 1).
- OS 10A-1-2-102v2 (HB 3104, Laws 2018, c. 256, § 3).

§10A-1-2-102v1. Department of Human Services - Required actions for reports of child abuse.

A. 1. Upon receipt of a report that a child may be abused, neglected or drug-endangered, the Department of Human Services shall conduct a safety analysis.

2. The Department may employ or contract with active or retired social work, medical and law enforcement professionals who shall be strategically placed throughout the state to:

- a. provide investigation support and to assist caseworkers with assessment decisions and intervention activities,
- b. serve as consultants to caseworkers in all aspects of their duties, and
- c. designate persons who shall act as liaisons within the Department whose primary functions are to develop relationships with local law enforcement agencies and courts.

3. The Department shall forward a report of its assessment or investigation and findings to any district attorney's office which may have jurisdiction to file a petition pursuant to Section 1-4-101 of this title.

4. If the child is a member of an active duty military family, the Department shall notify the designated federal authorities at the federal military installation where the active duty service member is

assigned that the Department has received a report that such child may be abused, neglected or drug-endangered.

5. Whenever the Department determines there is a child that meets the definition of a "drug-endangered child", as defined in Section 1-1-105 of this title, or a child has been diagnosed with fetal alcohol syndrome, the Department shall conduct an investigation of the allegations and shall not limit the evaluation of the circumstances to an assessment.

B. 1. If, upon receipt of a report alleging abuse or neglect or during the assessment or investigation, the Department determines that:

- a. the alleged perpetrator is someone other than a person responsible for the child's health, safety, or welfare, and
- b. the alleged abuse or neglect of the child does not appear to be attributable to failure on the part of a person responsible for the child's health, safety, or welfare to provide protection for the child,

the Department shall immediately make a referral, either verbally or in writing, to the appropriate local law enforcement agency for the purpose of conducting a possible criminal investigation.

2. After making the referral to the law enforcement agency, the Department shall not be responsible for further investigation unless:

- a. the Department has reason to believe the alleged perpetrator is a parent of another child, not the subject of the criminal investigation, or is otherwise a person responsible for the health, safety, or welfare of another child,
- b. notice is received from a law enforcement agency that it has determined the alleged perpetrator is a parent of or a person responsible for the health, safety, or welfare of another child not the subject of the criminal investigation, or
- c. the appropriate law enforcement agency requests the Department to assist in the investigation. If funds and personnel are available, as determined by the Director of the Department or a designee, the Department may assist law enforcement in interviewing children alleged to be victims of physical or sexual abuse.

3. If, upon receipt of a report alleging abuse or neglect or during the assessment or investigation, the Department determines that the alleged abuse or neglect of the child involves:

- a. a child in the custody of the Office of Juvenile Affairs, and
- b. at the time of the alleged abuse or neglect, such child was placed in a secure facility operated by the Office

of Juvenile Affairs, as defined by Section 2-1-103 of this title,

the Department shall immediately make a referral, either verbally or in writing, to the appropriate law enforcement agency for the purpose of conducting a possible criminal investigation. After making the referral to the law enforcement agency, the Department shall not be responsible for further investigation.

C. 1. Any law enforcement agency receiving a referral as provided in this section shall provide the Department with a copy of the report of any investigation resulting from a referral from the Department.

2. Whenever, in the course of any criminal investigation, a law enforcement agency determines that there is cause to believe that a child, other than a child in the custody of the Office of Juvenile Affairs and placed in an Office of Juvenile Affairs secure juvenile facility, may be abused or neglected by reason of the acts, omissions, or failures on the part of a person responsible for the health, safety, or welfare of the child, the law enforcement agency shall immediately contact the Department for the purpose of an investigation.

D. If, upon receipt of a report alleging abuse or neglect, the Department determines that the family has been the subject of a deprived petition, the Department shall conduct a thorough investigation of the allegations and shall not limit the evaluation of the circumstances to an assessment. In addition, if the family has been the subject of three (3) or more referrals, the Department shall conduct a thorough investigation of the allegations and shall not limit the evaluation of the circumstances to an assessment. Added by Laws 1995, c. 352, § 9, eff. July 1, 1995. Amended by Laws 1998, c. 421, § 6, emerg. eff. June 11, 1998; Laws 1999, c. 44, § 1, eff. Nov. 1, 1999; Laws 2000, c. 374, § 8, eff. July 1, 2000; Laws 2009, c. 233, § 17, emerg. eff. May 21, 2009. Renumbered from § 7003-1.1 of Title 10 by Laws 2009, c. 233, § 213, emerg. eff. May 21, 2009. Amended by Laws 2009, c. 338, § 4, eff. July 1, 2009; Laws 2010, c. 220, § 1, eff. May 6, 2010; Laws 2011, c. 1, § 1, emerg. eff. March 18, 2011; Laws 2011, c. 244, § 1, eff. Nov. 1, 2011; Laws 2012, c. 91, § 2, eff. Nov. 1, 2012; Laws 2014, c. 101, § 1, eff. Nov. 1, 2014; Laws 2014, c. 363, § 1, eff. Nov. 1, 2014; Laws 2016, c. 130, § 1, eff. Nov. 1, 2016.

NOTE: Laws 2010, c. 278, § 1 repealed by Laws 2011, c. 1, § 2, emerg. eff. March 18, 2011.

§10A-1-2-102v2. Assessment and investigations - Determinations and referrals by Department of Human Services - Investigations by law enforcement agencies.

A. 1. Upon receipt of a report that a child may be abused, neglected or drug-endangered, the Department of Human Services shall conduct a safety analysis.

2. The Department may employ or contract with active or retired social work, medical and law enforcement professionals who shall be strategically placed throughout the state to:

- a. provide investigation support and to assist caseworkers with assessment decisions and intervention activities,
- b. serve as consultants to caseworkers in all aspects of their duties, and
- c. designate persons who shall act as liaisons within the Department whose primary functions are to develop relationships with local law enforcement agencies and courts.

3. The Department shall forward a report of its assessment or investigation and findings to any district attorney's office which may have jurisdiction to file a petition pursuant to Section 1-4-101 of this title.

4. The Department shall determine the military status of parents whose children are subject to abuse or neglect. If the Department determines that a parent or guardian is currently serving on active duty in the United States military, the Department shall notify a United States Department of Defense family advocacy program that there is an investigation into the parent or guardian. The Department shall forward a report of its assessment or investigation and findings to the appropriate military law enforcement entity.

5. Whenever the Department determines there is a child that meets the definition of a "drug-endangered child", as defined in Section 1-1-105 of this title, or a child has been diagnosed with fetal alcohol syndrome and the referral is accepted for investigation, the Department shall conduct an investigation of the allegations and shall not limit the evaluation of the circumstances to an assessment.

6. Whenever the Department determines an infant has been diagnosed with Neonatal Abstinence Syndrome or a Fetal Alcohol Spectrum Disorder, but the referral is not accepted for investigation, the Department shall develop a plan of safe care that addresses both the infant and affected family member or caregiver. The plan of safe care shall address, at a minimum, the health and substance use treatment needs of the infant and affected family member or caregiver.

B. 1. If, upon receipt of a report alleging abuse or neglect or during the assessment or investigation, the Department determines that:

- a. the alleged perpetrator is someone other than a person responsible for the child's health, safety, or welfare, and

- b. the alleged abuse or neglect of the child does not appear to be attributable to failure on the part of a person responsible for the child's health, safety, or welfare to provide protection for the child,

the Department shall immediately make a referral, either verbally or in writing, to the appropriate local law enforcement agency for the purpose of conducting a possible criminal investigation.

2. After making the referral to the law enforcement agency, the Department shall not be responsible for further investigation unless:

- a. the Department has reason to believe the alleged perpetrator is a parent of another child, not the subject of the criminal investigation, or is otherwise a person responsible for the health, safety, or welfare of another child,
- b. notice is received from a law enforcement agency that it has determined the alleged perpetrator is a parent of or a person responsible for the health, safety, or welfare of another child not the subject of the criminal investigation, or
- c. the appropriate law enforcement agency requests the Department to assist in the investigation. If funds and personnel are available, as determined by the Director of the Department or a designee, the Department may assist law enforcement in interviewing children alleged to be victims of physical or sexual abuse.

3. If, upon receipt of a report alleging abuse or neglect or during the assessment or investigation, the Department determines that the alleged abuse or neglect of the child involves:

- a. a child in the custody of the Office of Juvenile Affairs, and
- b. at the time of the alleged abuse or neglect, such child was placed in a secure facility operated by the Office of Juvenile Affairs, as defined by Section 2-1-103 of this title,

the Department shall immediately make a referral, either verbally or in writing, to the appropriate law enforcement agency for the purpose of conducting a possible criminal investigation. After making the referral to the law enforcement agency, the Department shall not be responsible for further investigation.

C. 1. Any law enforcement agency receiving a referral as provided in this section shall provide the Department with a copy of the report of any investigation resulting from a referral from the Department.

2. Whenever, in the course of any criminal investigation, a law enforcement agency determines that there is cause to believe that a child, other than a child in the custody of the Office of Juvenile

Affairs and placed in an Office of Juvenile Affairs secure juvenile facility, may be abused or neglected by reason of the acts, omissions, or failures on the part of a person responsible for the health, safety, or welfare of the child, the law enforcement agency shall immediately contact the Department for the purpose of an investigation.

D. If, upon receipt of a report alleging abuse or neglect, the Department determines that the family has been the subject of a deprived petition, the Department shall conduct a thorough investigation of the allegations and shall not limit the evaluation of the circumstances to an assessment. In addition, if the family has been the subject of three or more referrals, the Department shall conduct a thorough investigation of the allegations and shall not limit the evaluation of the circumstances to an assessment.

E. For the purposes of this section, "law enforcement" shall include military law enforcement if the subject of an investigation of abuse or neglect is currently serving in any branch of the United States military.

F. The Department shall promulgate rules to implement the provisions of this section.

Added by Laws 1995, c. 352, § 9, eff. July 1, 1995. Amended by Laws 1998, c. 421, § 6, emerg. eff. June 11, 1998; Laws 1999, c. 44, § 1, eff. Nov. 1, 1999; Laws 2000, c. 374, § 8, eff. July 1, 2000; Laws 2009, c. 233, § 17, emerg. eff. May 21, 2009. Renumbered from § 7003-1.1 of Title 10 by Laws 2009, c. 233, § 213, emerg. eff. May 21, 2009. Amended by Laws 2009, c. 338, § 4, eff. July 1, 2009; Laws 2010, c. 220, § 1, eff. May 6, 2010; Laws 2011, c. 1, § 1, emerg. eff. March 18, 2011; Laws 2011, c. 244, § 1, eff. Nov. 1, 2011; Laws 2012, c. 91, § 2, eff. Nov. 1, 2012; Laws 2014, c. 101, § 1, eff. Nov. 1, 2014; Laws 2014, c. 363, § 1, eff. Nov. 1, 2014; Laws 2016, c. 66, § 1, eff. Nov. 1, 2016; Laws 2018, c. 256, § 3, emerg. eff. May 8, 2018.

NOTE: Laws 2010, c. 278, § 1 repealed by Laws 2011, c. 1, § 2, emerg. eff. March 18, 2011.

§10A-1-2-103. Judicial authority to request investigation.

A judge of the district court may request an investigation be conducted by the Oklahoma State Bureau of Investigation or other law enforcement agency in cases where the court reasonably believes that criminally injurious conduct including, but not limited to, physical or sexual abuse of a child has occurred.

Added by Laws 2006, c. 205, § 15, eff. Nov. 1, 2006. Amended by Laws 2009, c. 233, § 80, emerg. eff. May 21, 2009. Renumbered from § 7104.1 of Title 10 by Laws 2009, c. 233, § 214, emerg. eff. May 21, 2009.

§10A-1-2-104. Immunity from civil and criminal liability -  
Presumption.

A. Any person who, in good faith and exercising due care, reports suspected child abuse or neglect, or who allows access to a child by persons authorized to investigate a report concerning the child shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report.

B. For purposes of any proceeding, civil or criminal, the good faith of any person in making a report pursuant to the provisions of Section 1-2-101 of this title shall be presumed.

C. A child advocacy center that is accredited by the National Children's Alliance, and the employees thereof, who are acting in good faith and exercising due care shall have immunity from civil liability that may be incurred or imposed through participation in the investigation process and any judicial proceeding resulting from the investigation process.

Added by Laws 1965, c. 43, § 3, emerg. eff. March 18, 1965. Amended by Laws 1977, c. 172, § 3, eff. Oct. 1, 1977; Laws 1984, c. 85, § 2, eff. Nov. 1, 1984; Laws 1989, c. 67, § 1, emerg. eff. April 13, 1989; Laws 1995, c. 353, § 5, eff. Nov. 1, 1995. Renumbered from § 847 of Title 21 by Laws 1995, c. 353, § 20, eff. Nov. 1, 1995. Amended by Laws 2000, c. 293, § 1, emerg. eff. June 5, 2000; Laws 2005, c. 184, § 2, emerg. eff. May 17, 2005; Laws 2009, c. 233, § 81, emerg. eff. May 21, 2009. Renumbered from § 7105 of Title 10 by Laws 2009, c. 233, § 215, emerg. eff. May 21, 2009.

§10A-1-2-105. Investigation of child abuse or neglect - Assessment of family - Immediate removal of child - Report - Voluntary services - Temporary restraining order - Investigation by State Bureau of Investigation - Child with complex medical needs.

A. 1. Any county office of the Department of Human Services receiving a child abuse or neglect report shall promptly respond to the report by initiating an investigation of the report or an assessment of the family in accordance with priority guidelines established by the Department. The Department may prioritize reports of alleged child abuse or neglect based on the severity and immediacy of the alleged harm to the child. The Department shall adopt a priority system pursuant to rules promulgated by the Department. The primary purpose of the investigation or assessment shall be the protection of the child. For investigations or assessments, the Department shall give special consideration to the risks of any minor, including a child with a disability, who is unable to communicate effectively about abuse, neglect or other safety threat or who is in a vulnerable position due to the inability to communicate effectively.

2. If an investigation or assessment conducted by the Department in response to any report of child abuse or neglect shows that the incident reported was the result of the reasonable exercise of parental discipline involving the use of ordinary force, including, but not limited to, spanking, switching, or paddling, the investigation or assessment will proceed no further and all records regarding the incident shall be expunged.

B. 1. The investigation or assessment shall include a visit to the home of the child, unless there is reason to believe that there is an extreme safety risk to the child or worker or it appears that the referral has been made in bad faith. The visit shall include an interview with and examination of the subject child and may be conducted at any reasonable time and at any place including, but not limited to, the child's school. The Department shall notify the person responsible for the health, safety, and welfare of the child that the child has been interviewed at a school. The investigation or assessment may include an interview with the parents of the child or any other person responsible for the health, safety, or welfare of the child and an interview with and examination of any child in the home.

2. The investigation or assessment may include a medical, psychological, or psychiatric examination of any child in the home. If admission to the home, school, or any place where the child may be located cannot be obtained, then the district court having jurisdiction, upon application by the district attorney and upon cause shown, shall order the person responsible for the health, safety, or welfare of the child, or the person in charge of any place where the child may be located, to allow entrance for the interview, the examination, and the investigation or assessment. If the person responsible for the health, safety, or welfare of the child does not consent to a medical, psychological, or psychiatric examination of the child that is requested by the Department, the district court having jurisdiction, upon application by the district attorney and upon cause shown, shall order the examination to be made at the times and places designated by the court.

3. The investigation or assessment may include an inquiry into the possibility that the child or a person responsible for the health, safety, or welfare of the child has a history of mental illness. If the person responsible for the child's health, safety, or welfare does not allow the Department to have access to behavioral health records or treatment plans requested by the Department, which may be relevant to the alleged abuse or neglect, the district court having jurisdiction, upon application by the district attorney and upon good cause shown, shall by order allow the Department to have access to the records pursuant to terms and conditions prescribed by the court.

4. a. If the court determines that the subject of the behavioral health records is indigent, the court shall appoint an attorney to represent that person at the hearing to obtain behavioral health records.
- b. A person responsible for the health, safety, or welfare of the child is entitled to notice and a hearing when the Department seeks a court order to allow a psychological or psychiatric examination or access to behavioral health records.
- c. Access to behavioral health records does not constitute a waiver of confidentiality.

5. The investigation of a report of sexual abuse or serious physical abuse or both sexual abuse and serious physical abuse shall be conducted, when appropriate and possible, using a multidisciplinary team approach as provided by Section 1-9-102 of this title. Law enforcement and the Department shall exchange investigation information.

6. The investigation or assessment shall include an inquiry into whether the person responsible for the health, safety or welfare of the child is an active duty service member of the military or the spouse of an active duty service member. The Department shall collect and report information related to the military affiliation of the person or spouse responsible for the health, safety or welfare of the child to the designated federal authorities at the federal military installation where the service member is assigned as provided by paragraph 4 of subsection A of Section 1-2-102 of this title.

C. 1. Every physician, surgeon, or other health care provider making a report of abuse or neglect as required by this section or examining a child to determine the likelihood of abuse or neglect and every hospital or related institution in which the child was examined or treated shall provide copies of the results of the examination or copies of the examination on which the report was based and any other clinical notes, x-rays, photographs, and other previous or current records relevant to the case to law enforcement officers conducting a criminal investigation into the case and to employees of the Department conducting an assessment or investigation of alleged abuse or neglect in the case.

2. As necessary in the course of conducting an assessment or investigation, the Department may request and obtain, without a court order, copies of all prior medical records of a child including, but not limited to, hospital records, medical, and dental records. The physician-patient privilege shall not constitute grounds for failure to produce such records.

D. 1. The Department shall engage in a collaborative decision-making process to address each child's needs related to safety and

whether the child's condition warrants a safety intervention including but not limited to a change in placement, and:

- a. those involved in the collaborative decision-making process shall include at a minimum appropriate Department staff, the parents of the child and, if the parent requests, an advocate or representative,
- b. to protect the safety of those involved and to promote efficiency, the Department may limit participants as determined to be in the best interests of the child,
- c. the Department shall make reasonable efforts to provide a trained facilitator to guide the decision-making process, and
- d. any determination that a collaborative decision-making process is not possible or is unnecessary shall require supervisor approval and documentation of the reasons supporting the determination.

2. If, before the assessment or investigation is complete, the Department determines that immediate removal of the child is necessary to protect the child from further abuse or neglect, the Department shall recommend that the child be taken into custody and, if feasible, utilize the collaborative decision-making process provided by paragraph 1 of this subsection prior to the emergency custody hearing.

E. The Department shall make a complete written report of the investigation. The investigation report, together with its recommendations, shall be submitted to the appropriate district attorney's office. Reports of assessment recommendations shall be submitted to appropriate district attorneys.

F. The Department, where appropriate and in its discretion, shall identify prevention- and intervention-related services available in the community and refer the family to or arrange for such services when an investigation or assessment indicates the family would benefit from such services, or the Department may provide such services directly. The Department shall document in the record its attempts to provide, refer or arrange for the provision of voluntary services and shall determine within sixty (60) days whether the family has accessed those services directly related to safety of the child. If the family refuses voluntary services or does not access those services directly related to safety of the child, and it is determined by the Department that the child's surroundings endanger the health, safety, or welfare of the child, the Department may recommend that the child be placed in protective or emergency custody or that a petition be filed.

G. If the Department has reason to believe that a person responsible for the health, safety, and welfare of the child may remove the child from the state before the investigation is completed, the Department may request the district attorney to file

an application for a temporary restraining order in any district court in the State of Oklahoma without regard to continuing jurisdiction of the child. Upon cause shown, the court may enter a temporary restraining order prohibiting the parent or other person from removing the child from the state pending completion of the assessment or investigation.

H. The Director of the Department or designee may request an investigation be conducted by the Oklahoma State Bureau of Investigation or other law enforcement agency in cases where it reasonably believes that criminally injurious conduct including, but not limited to, physical or sexual abuse of a child has occurred.

I. Child Welfare Services, in collaboration with the Developmental Disabilities Services Division, shall implement a protocol to be used in cases where the subject child is a child with a disability who has complex medical needs, and the protocol shall include, but not be limited to: resource coordination, medical consultation or medical evaluation, when needed.

Added by Laws 1995, c. 353, § 6, eff. Nov. 1, 1995. Amended by Laws 1996, c. 200, § 12, eff. Nov. 1, 1996; Laws 1998, c. 416, § 14, eff. Nov. 1, 1998; Laws 1999, c. 425, § 1, eff. Nov. 1, 1999; Laws 2000, c. 374, § 32, eff. July 1, 2000; Laws 2006, c. 205, § 16, eff. Nov. 1, 2006; Laws 2009, c. 233, § 83, emerg. eff. May 21, 2009.

Renumbered from § 7106 of Title 10 by Laws 2009, c. 233, § 216, emerg. eff. May 21, 2009. Amended by Laws 2009, c. 338, § 11, eff. July 1, 2009; Laws 2010, c. 278, § 2, eff. Nov. 1, 2010; Laws 2014, c. 355, § 2, eff. Nov. 1, 2014; Laws 2016, c. 130, § 2, eff. Nov. 1, 2016; Laws 2017, c. 342, § 2, eff. Nov. 1, 2017.

§10A-1-2-106. Notice to person being investigated.

At the initial time of contact with a person responsible for the health, safety, or welfare of a child who is the subject of an investigation pursuant to the Oklahoma Children's Code, the Department of Human Services shall advise the person of the specific complaint or allegation made against the person. If the Department is unable to locate the person, as soon as possible after initiating the investigation of the person, the Department shall provide to the person a brief and easily understood written description of the investigation process. Notice shall include:

1. A statement that the investigation is being undertaken by the Department pursuant to the requirements of the Oklahoma Children's Code in response to a report of child abuse or neglect;

2. A statement that the identity of the person who reported the incident of abuse is confidential and may not even be known to the Department since the report could have been made anonymously;

3. A statement that the investigation is required by law to be conducted in order to enable the Department to identify incidents of

abuse or neglect in order to provide protective or preventive social services to families who are in need of such services;

4. A statement that, upon completion of the investigation, a letter will be sent from the Department which will inform the person:

- a. that the Department has found insufficient evidence of abuse or neglect, or
- b. that there appears to be probable cause to suspect the existence of child abuse or neglect in the judgment of the Department;

5. An explanation of the procedures of the Department for conducting an investigation of alleged child abuse or neglect, including:

- a. a description of the circumstances under which the Department would seek to remove the child from the home through the judicial system, and
- b. an explanation that the law requires the Department to refer all reports of child abuse or neglect to a law enforcement agency for a separate determination of whether a criminal violation occurred;

6. The procedures to follow if there is a complaint regarding the actions of the Department or to request a review of the findings made by the Department during or at the conclusion of the investigation;

7. The right of the person to review records filed with the court in the event an action is filed;

8. The right of the person to seek legal counsel;

9. References to the statutory and regulatory provisions governing child abuse and neglect and how the person may obtain copies of those provisions;

10. The process the person may use to acquire visitation with the child if the child is removed from the home; and

11. A statement that a failure to appear for court proceedings may result in the termination of the person's parental rights to the child.

Added by Laws 1995, c. 353, § 8, eff. Nov. 1, 1995. Amended by Laws 1998, c. 416, § 16, eff. Nov. 1, 1998; Laws 2004, c. 435, § 1, eff. Nov. 1, 2004; Laws 2009, c. 233, § 85, emerg. eff. May 21, 2009. Renumbered from § 7108 of Title 10 by Laws 2009, c. 233, § 217, emerg. eff. May 21, 2009.

§10A-1-2-107. Disclosure of information.

A. The Department of Human Services may provide information to a person or agency that provides professional services such as medical examination of or therapeutic intervention with a victim of abuse or neglect. This information may include, but is not limited to:

1. The investigative determination; or
2. The services offered and provided.

B. The Department shall forward to any hospital or any physician, including, but not limited to, doctors of medicine and dentistry, licensed osteopathic physicians, residents and interns, reporting the abuse or neglect of a child pursuant to Section 1-2-101 of this title, information including the investigative determination, the services offered or provided, and such other information deemed necessary by the Department. The information shall be entered and maintained in the medical records of the child.

Added by Laws 1995, c. 353, § 9, eff. Nov. 1, 1995. Amended by Laws 1996, c. 212, § 2, eff. Nov. 1, 1996; Laws 1998, c. 416, § 17, eff. Nov. 1, 1998; Laws 2009, c. 233, § 86, emerg. eff. May 21, 2009. Renumbered from § 7109 of Title 10 by Laws 2009, c. 233, § 218, emerg. eff. May 21, 2009.

§10A-1-2-108. Central registry for child abuse, sexual abuse, sexual exploitation and neglect.

A. There is hereby established within the Department of Human Services an information system for the maintenance of all reports of child abuse, sexual abuse, sexual exploitation, and neglect made pursuant to the provisions of the Oklahoma Children's Code.

B. The Children and Family Services Division of the Department shall be responsible for maintaining a suitably cross-indexed system of all the reports.

C. The records maintained shall contain, but shall not be limited to:

1. All information in the written report required by Section 1-2-101 of this title;

2. A record of the final disposition of the report including services offered and services accepted;

3. The plan for rehabilitative treatment; and

4. Any other relevant information.

D. Data and information maintained and related to individual cases shall be confidential and shall be made available only as authorized by state or federal law.

E. The Commission for Human Services shall promulgate rules governing the availability of such data and information.

F. Rules promulgated by the Commission shall encourage cooperation with other states in exchanging reports in order to effect a national registration system.

G. No person shall allow the data and information maintained to be released except as authorized by Chapter VI of the Oklahoma Children's Code.

H. Records obtained by the Department shall be maintained by the Department until otherwise provided by law.

Added by Laws 1995, c. 353, § 11, eff. Nov. 1, 1995. Amended by Laws 1996, c. 200, § 20, eff. Nov. 1, 1996; Laws 1997, c. 133, § 126, eff. July 1, 1999; Laws 1998, c. 416, § 19, eff. Nov. 1, 1998; Laws 2009,

c. 233, § 90, emerg. eff. May 21, 2009. Renumbered from § 7111 of Title 10 by Laws 2009, c. 233, § 219, emerg. eff. May 21, 2009. Amended by Laws 2015, c. 29, § 1, eff. Nov. 1, 2015.

NOTE: Laws 1998, 1st Ex. Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 126 from July 1, 1998, to July 1, 1999.

§10A-1-2-109. Relinquishment of child 7 days of age or younger to medical services provider or child rescuer.

A. A parent subject to the provisions of this act shall not be prosecuted for child abandonment or child neglect under the provisions of any statute which makes child abandonment or child neglect a crime, when the allegations of child abandonment or child neglect are based solely on the relinquishment of a child seven (7) days of age or younger to a medical services provider or a child rescuer as defined in this section.

B. The following entities shall, without a court order, take possession of a child seven (7) days of age or younger if the child is voluntarily delivered to the entity by the parent of the child and the parent did not express an intent to return for the child:

1. A medical services provider; or
2. A child rescuer.

C. Any entity identified in subsection B of this section to which a parent seeks to relinquish a child pursuant to the provisions of this section may:

1. Request, but not demand, any information about the child that the parent is willing to share. The entity is encouraged to ask about, but not demand, the details of any relevant medical history relating to the child or the parents of the child. The entity shall respect the wish of the parent if the parent desires to remain anonymous; and

2. Provide the parent with printed information relating to the rights of the parents, including both parents, with respect to reunification with the child and sources of counseling for the parents, if desired.

D. Once a child has been relinquished to any entity identified in subsection B of this section, the entity receiving the child shall:

1. Perform or provide for the performance of any act necessary to protect the physical health or safety of the child; and
2. Notify the local office of the Department that a parent of a child seven (7) days of age or younger, in the best judgment of the receiving entity, has relinquished such child and that the entity has taken possession of the child.

E. Upon being made aware that a medical services provider or child rescuer has possession of a child under the provisions of this act, the Department of Human Services shall immediately check with law enforcement authorities to determine if a child has been reported

missing and whether the missing child could be the relinquished child.

F. The Department shall design and disseminate:

1. A simplified form for the recording of medical or other information that a relinquishing parent wishes to share with the entity to whom the child is being relinquished;

2. Easily understood printed materials that give information about parents' rights with regard to reunification with a child including, but not limited to, information on how a parent can contact the appropriate entity regarding reunification, and information on sources of counseling for relinquishing parents; and

3. Media information, including printed material, that creates public awareness about the provisions of this act.

G. For purposes of this section:

1. "Medical services provider" means a person authorized to practice the healing arts, including a physician's assistant or nurse practitioner, a registered or practical nurse and a nurse aide; and

2. "Child rescuer" means any employee or other designated person on duty at a police station, fire station, child protective services agency, hospital, or other medical facility.

H. A medical services provider or child rescuer with responsibility for performing duties pursuant to this section shall be immune from any criminal liability that might otherwise result from the actions of the entity, if acting in good faith in receiving a relinquished child. In addition, such medical provider or child rescuer shall be immune from any civil liability that might otherwise result from merely receiving a relinquished child.

Added by Laws 2001, c. 143, § 2, eff. July 1, 2001. Amended by Laws 2009, c. 233, § 92, emerg. eff. May 21, 2009. Renumbered from § 7115.1 of Title 10 by Laws 2009, c. 233, § 220, emerg. eff. May 21, 2009.

§10A-1-2-110. Abandonment of child in voluntary placement.

A. For a child in a voluntary foster care placement pursuant to an agreement between the parent, legal guardian or custodian of the child and the Developmental Disabilities Services Division of the Department of Human Services if the division determines that such child has been abandoned pursuant to the provisions of Section 1-4-904 of this title, such Division may complete a written report of recommendations to the Division of Children and Family Services within the Department. Such report shall specify that the child has been abandoned and shall recommend that the Division of Children and Family Services request the district attorney to file a petition alleging the child to be deprived. If the court determines that the child has been abandoned, reasonable efforts to provide for the return of the child to the child's own home shall not be required. Then the court shall conduct a permanency hearing within thirty (30)

days of such determination pursuant to the provision of Section 1-4-811 of this title.

B. If the child is subsequently adjudicated deprived, the Developmental Disabilities Services Division and the Division of Children and Family Services shall cooperate and collaborate with regard to the welfare, health and safety of the child in a permanent placement pursuant to the provisions of the Oklahoma Children's Code. Added by Laws 1998, c. 421, § 33, emerg. eff. June 11, 1998. Amended by Laws 2009, c. 233, § 107, emerg. eff. May 21, 2009. Renumbered from § 7218 of Title 10 by Laws 2009, c. 233, § 221, emerg. eff. May 21, 2009.

§10A-1-2-111. Pilot program to improve socioeconomic outcomes for children in state custody.

A. The Department of Human Services may, subject to available funding and in consultation with an evaluation team created pursuant to this section, create a pilot program to improve socioeconomic outcomes for children in state custody.

B. If implemented by the Department, the pilot program shall:

1. Identify the populations of children in state custody and the characteristics of those children including, but not limited to, populations in which parental drug and/or alcohol abuse, mental illness, mental and/or physical disability and domestic abuse are an issue;

2. Develop and design programs to provide services to children in state custody;

3. Develop methods for coordinating state and local services to assist children and their families;

4. Allow and provide for participation of both urban and rural concerns in developing and designing such programs;

5. Monitor, evaluate and review the programs implemented to serve populations of children in state custody; and

6. Include such other areas, programs, services and information deemed necessary by the Department to provide a comprehensive assessment of the needs and programs necessary to provide assistance to children in state custody.

C. An evaluation team shall determine the effectiveness of the pilot program and make a report to the Legislature and to the Department annually thereafter. Such report shall cover:

1. Effective programs that will serve children in state custody;

2. The potential for statewide expansion of programs;

3. Funding sources from public and private partnerships;

4. Training of professionals to serve children in state custody;

5. Monitoring, evaluating and reviewing continued effectiveness of such programs;

6. Special needs of children in state custody from parental addiction to drugs and alcohol and parental mental illness and mental and/or physical disability and from domestic abuse; and

7. Recommendations regarding the issuance of grants and contracts for serving such populations.

D. The evaluation team shall consist of not more than two (2) representatives from the following entities who have expertise in child abuse prevention, juvenile delinquency or a related field and who have an understanding of program evaluation techniques:

1. The Department of Human Services;
2. The Department of Mental Health and Substance Abuse Services;
3. The Oklahoma Commission on Children and Youth;
4. A statewide organization advocating for children's issues;
5. A statewide organization representing children in court;
6. The University of Oklahoma;
7. Oklahoma State University; and
8. The Office of Juvenile Affairs.

E. Upon receipt of recommendations from the evaluation team established pursuant to this section, which indicate that the expansion of the pilot project on a statewide basis would be economically feasible and practical, the Department for Human Services may promulgate rules for developing a statewide program based on the findings of the pilot program.

F. The Department may:

1. Contract for services necessary to carry out the duties of the Department pursuant to the provisions of this section; and
2. Accept the services of volunteer workers or consultants, provided no compensation be provided for such services.

G. The Department of Human Services may promulgate rules to implement the provisions of this section.

Added by Laws 2017, c. 315, § 1, eff. Nov. 1, 2017.

§10A-1-3-101. Authorization to consent to medical or dental care.

A. 1. Either parent or the court-appointed legal guardian of a child may authorize, in writing, any adult person into whose care the minor has been entrusted to consent to any:

- a. x-ray examination,
- b. anesthetic,
- c. medical or surgical diagnosis or treatment,
- d. hospital care, or
- e. immunization, blood tests, examinations, Guidance Services, and Early Intervention Services provided by a city or county Department of Health,

to be rendered to said minor under the general or special supervision and upon the advice of a physician and surgeon licensed under the laws of the State of Oklahoma, or to consent to an x-ray examination, anesthetic, dental or surgical diagnosis or treatment and hospital

care to be rendered to said minor by a dentist licensed under the laws of the State of Oklahoma.

2. If any parent or other person falsely represents in writing that such parent or other person has legal custody or legal guardianship of the minor child, or if any adult falsely represents that the written authorization provided for in this subsection is valid, and a health professional provides health services or care as provided by this section in good faith upon such misrepresentation, the health professional shall incur no liability except for negligence or intentional harm.

B. Either parent, if both parents have legal custody, or the parent or person having legal custody or the legal guardian of a minor may authorize, in writing, pursuant to the provisions of Section 1-116.2 of Title 70 of the Oklahoma Statutes a school or county nurse or in the absence of such nurse, a school administrator or designated school employees to administer:

1. A nonprescription medicine; and

2. A filled prescription medicine as that term is defined by Section 353.1 of Title 59 of the Oklahoma Statutes.

Added by Laws 1974, c. 208, § 1, emerg. eff. May 15, 1974. Amended by Laws 1984, c. 192, § 2, emerg. eff. May 14, 1984; Laws 1992, c. 273, § 2, eff. Sept. 1, 1992; Laws 1994, c. 15, § 1, eff. Sept. 1, 1994; Laws 2009, c. 233, § 7, emerg. eff. May 21, 2009. Renumbered from § 170.1 of Title 10 by Laws 2009, c. 233, § 222, emerg. eff. May 21, 2009.

§10A-1-3-102. Medical care and treatment - Definitions - Authorization and consent.

A. For purposes of this section:

1. "Routine and ordinary medical care and treatment" includes any necessary medical and dental examinations and treatment, medical screenings, clinical laboratory tests, blood testing, preventative care, health assessments, physical examinations, immunizations, contagious or infectious disease screenings or tests and care required for treatment of illness and injury, including x-rays, stitches and casts, or the provision of psychotropic medications but does not include any type of extraordinary care; and

2. "Extraordinary medical care and treatment" includes, but is not limited to, surgery, general anesthesia, blood transfusions, or invasive or experimental procedures.

B. If a child taken into protective custody without a court order requires emergency medical care prior to the emergency custody hearing, and either the treatment is related to the suspected abuse or neglect or the parent or legal guardian is unavailable or unwilling to consent to treatment recommended by a physician, a peace officer, court employee or the court may authorize such treatment as is necessary to safeguard the health or life of the child. Before a

peace officer, court employee or the court authorizes treatment based on unavailability of the parent or legal guardian, law enforcement shall exercise diligence in locating the parent or guardian, if known.

C. 1. If a child has been placed in the custody of the Department of Human Services, the Department shall have the authority to consent to routine and ordinary medical care and treatment. The Department shall make reasonable attempts to notify the child's parent or legal guardian of the provision of routine and ordinary medical care and treatment and to keep the parent or legal guardian involved in such care.

2. In no case shall the Department consent to a child's abortion, sterilization, termination of life support or a "Do Not Resuscitate" order. The court may authorize the withdrawal of life-sustaining medical treatment or the denial of the administration of cardiopulmonary resuscitation on behalf of a child in the Department's custody upon the written recommendation of a licensed physician, after notice to the parties and a hearing.

3. Nothing herein shall prevent the Department from authorizing, in writing, any person, foster parent or administrator of a facility into whose care a child in its custody has been entrusted, to consent to routine and ordinary medical care and treatment to be rendered to a child upon the advice of a licensed physician, including the continuation of psychotropic medication.

D. Consent for a child's extraordinary medical care and treatment shall be obtained from the parent or legal guardian unless the treatment is either related to the abuse or neglect or the parent or legal guardian is unavailable or refuses to consent to such care, in which case in an emergency, based upon recommendation of a physician, the court may enter an ex parte order authorizing such treatment or procedure in order to safeguard the child's health or life. If the recommended extraordinary medical care and treatment is not an emergency, the court shall hold a hearing, upon application by the district attorney and notice to all parties, and may authorize such recommended extraordinary care.

E. If a child has been placed in the custody of a person, other than a parent or legal guardian, or an institution or agency other than the Department, the court shall determine the authority of the person, institution, or agency to consent to medical care including routine and ordinary medical care and treatment and extraordinary care. The parent, legal guardian, or person having legal custody shall be responsible for the costs of medical care as determined by the court.

Added by Laws 2009, c. 233, § 112, emerg. eff. May 21, 2009. Amended by Laws 2010, c. 358, § 3, emerg. eff. June 7, 2010.

NOTE: Laws 2010, c. 278, § 3 repealed by Laws 2011, c. 1, § 3, emerg. eff. March 18, 2011.

§10A-1-3-103. Immunity from liability for authorizing medical treatment or mental health evaluation or treatment.

No peace officer, employee of the court, employee of the Department of Human Services, or person consenting or not consenting to medical treatment or behavioral health evaluation or treatment in accordance with the provisions of this title shall have any liability, civil or criminal, for such action. No physician or health care provider acting pursuant to consent or pursuant to court order authorizing treatment shall have any liability, civil or criminal, for acting pursuant to consent or authorization.

Added by Laws 1995, c. 352, § 14, eff. July 1, 1995. Amended by Laws 2000, c. 374, § 12, eff. July 1, 2000; Laws 2009, c. 233, § 20, emerg. eff. May 21, 2009. Renumbered from § 7003-2.5 of Title 10 by Laws 2009, c. 233, § 223, emerg. eff. May 21, 2009.

§10A-1-4-101. Jurisdiction - Venue - Residence of child - Transfer of proceedings.

A. 1. Upon the filing of a petition, the assumption of the custody of a child, or issuance of an emergency custody order pursuant to the provisions of the Oklahoma Children's Code, the district court shall obtain jurisdiction over any child who is or is alleged to be deprived. Jurisdiction shall also be obtained over any parent, legal guardian, or custodian of and any other person living in the home of such child who appears in court or has been properly served with a summons pursuant to Section 1-4-304 of this title.

2. When jurisdiction has been obtained over a child who is or is alleged to be a deprived child:

- a. such jurisdiction may be retained until the child becomes eighteen (18) years of age,
- b. the court may issue any temporary order or grant any interlocutory relief authorized by this Code in an emergency, regardless of whether another district court within the county or state has prior or current jurisdiction to determine the custody, support, or visitation of the child,
- c. all other action then pending or thereafter commenced within the county or state that concerns the custody, support, or visitation of the child shall be automatically stayed unless after notice to the parties in the deprived action, the written consent of such court is obtained and filed in the other proceeding; provided, a child's delinquency action may, in the discretion of the court, proceed pursuant to the Oklahoma Juvenile Code,
- d. all orders entered in the deprived proceeding concerning the custody, support, or visitation of a

- child shall control over conflicting orders entered in other actions until such time as the jurisdiction of the court in the deprived proceeding terminates, and
- e. the judge presiding over a deprived action shall have the authority to make a final determination in the matter and preside over any separate action necessary to finalize a child's court-approved permanency plan including an adoption, guardianship, or other custody proceeding.

B. 1. Venue of any action involving a child alleged to be deprived shall be in the county where:

- a. the child resides, or has resided for six (6) months preceding the filing,
- b. the alleged acts of deprivation occurred, or
- c. a parent or sibling has a deprived action pending.

If none of the locations listed in this paragraph are known, venue may be in the county where the child is found.

2. A deprived action shall not be dismissed if filed in the wrong venue, but shall be transferred to the proper venue upon discovery of the proper venue, unless venue is waived by all parties on the record.

3. Except as provided for in this subsection, a deprived action commenced in a county outside of the residence of the child may be transferred to the county of the child's residence at any stage in the proceedings after the petition has been filed. The receiving court shall continue with the proceedings as though the original petition had been filed in that court.

- a. When a petition or motion to terminate parental rights has been filed, the case shall not be transferred until the sending court has concluded the termination proceeding.
- b. Absent good cause to the contrary, a deprived action shall be transferred to the county where other proceedings are pending concerning custody of the child or the child's siblings.
- c. Prior to adjudication pursuant to Section 1-4-603 of this title, a case may be transferred to a venue where the evidence or witnesses are located when the interests of justice or convenience of the parties so require. Following adjudication, the receiving court may transfer the case back to the county of the child's legal residence as provided in this section.

4. For purposes of this section, the residence of the child shall be the residence of the person who has the legal right to physical custody of the child according to a prior court order or by operation of law.

- a. If there is no order determining the custody of the child, the custodian of the child shall be:
  - (1) both parents where they reside together,
  - (2) the primary or actual physical custodial parent where parents do not reside together, or
  - (3) the mother where paternity has or has not been established.
- b. The residence of a newborn child shall be deemed to be the county where the child's mother legally resided at the time of the child's birth.
- c. When the child is in the permanent custody of a public or private child care agency, the residence of the child shall be the county in which the child resides at the time when legal proceedings are initiated.
- d. For purposes of transfer, the residence of the child may be with the person that the court approves for permanent placement.

5. The court may request the transfer of the case to another county where the child resides.

- a. Prior to transferring a case to another venue, the court shall contact the judge in the other venue to confirm that the judge in the other venue will accept the transfer.
- b. Upon written confirmation that transfer of venue is accepted, the transferring judge shall enter the transfer order, and certified copies of all documents of record with the clerk of the transferring court shall be transmitted to the receiving court along with the names and addresses of all parties entitled to notice of any further proceedings.
- c. Upon transfer of the case, the receiving court shall set a hearing date for the parties that is not more than thirty (30) days following the date upon which the change of venue has occurred.

Added by Laws 1995, c. 352, § 4, eff. July 1, 1995. Amended by Laws 1996, c. 200, § 4, eff. Nov. 1, 1996; Laws 1998, c. 421, § 3, emerg. eff. June 11, 1998; Laws 2005, c. 69, § 1, eff. Nov. 1, 2005; Laws 2009, c. 233, § 12, emerg. eff. May 21, 2009. Renumbered from § 7002-1.1 of Title 10 by Laws 2009, c. 233, § 224, emerg. eff. May 21, 2009. Amended by Laws 2010, c. 49, § 1, eff. Nov. 1, 2010.

§10A-1-4-102. Evidence of child abuse or neglect in matrimonial or child custody actions - Investigation by Department of Human Services - Orders for protective custody - Appointment of attorney for child.

A. 1. If the evidence in a court proceeding concerning child custody or visitation indicates that a child may be a victim of abuse

or neglect, the court shall refer the allegations to the Department of Human Services for an assessment or investigation.

2. The Department shall conduct an assessment or investigation concerning such report in accordance with priority guidelines established by the Department.

3. The Department shall submit a report of its assessment or investigation to the office of the district attorney and provide a copy of its reports to the referring court within thirty (30) days of such notice, and notify parties to the proceeding of the submission of the report to the court.

4. The district attorney shall advise the referring court within three (3) days of the receipt of the findings of the Department whether a deprived petition will be filed by that office. If no deprived petition is filed, the referring court may take appropriate action regarding the custody or visitation of the child.

B. Nothing in this section shall:

- a. preclude the referring court from entering an order to have the child taken into emergency custody if evidence presented to the referring court indicates a child is in surroundings that are such as to endanger the welfare of the child. If a child is placed into emergency custody by such an order, the provisions of Chapter IV of the Oklahoma Children's Code shall apply, or
- b. preclude any court presiding over any proceeding from referring allegations of child abuse or neglect to the Department for assessment or investigation.

C. If, in any proceeding concerning child custody or visitation, the evidence indicates that a child has been subject to abuse or neglect, the court shall appoint an attorney to represent the child for that proceeding and any related proceedings and may appoint a guardian ad litem for the child as permitted by law.

Added by Laws 1977, c. 259, § 2, eff. Oct. 1, 1977. Amended by Laws 1982, c. 312, § 14, operative Oct. 1, 1982; Laws 1995, c. 352, § 5, eff. July 1, 1995. Renumbered from § 1102.1 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1996, c. 200, § 5, eff. Nov. 1, 1996; Laws 1997, c. 386, § 2, emerg. eff. June 10, 1997; Laws 1998, c. 421, § 4, emerg. eff. June 11, 1998; Laws 2000, c. 374, § 6, eff. July 1, 2000; Laws 2009, c. 233, § 13, emerg. eff. May 21, 2009. Renumbered from § 7002-1.2 of Title 10 by Laws 2009, c. 233, § 225, emerg. eff. May 21, 2009.

§10A-1-4-201. Circumstances authorizing taking a child into custody - Joint response by Department of Human Services, law enforcement, and district courts - Safety evaluation.

A. Pursuant to the provisions of this section, a child may be taken into custody prior to the filing of a petition:

1. By a peace officer or employee of the court, without a court order if the officer or employee has reasonable suspicion that:
  - a. the child is in need of immediate protection due to an imminent safety threat,
  - b. the circumstances or surroundings of the child are such that continuation in the child's home or in the care or custody of the parent, legal guardian, or custodian would present an imminent safety threat to the child, or
  - c. the child, including a child with a disability, is unable to communicate effectively about abuse, neglect or other safety threat or is in a vulnerable position due to the inability to communicate effectively and the child is in need of immediate protection due to an imminent safety threat; or

2. By an order of the district court issued upon the application of the office of the district attorney. The application presented by the district attorney may be supported by a sworn affidavit which may be based upon information and belief. The application shall state facts sufficient to demonstrate to the court that a continuation of the child in the home or with the caretaker of the child is contrary to the child's welfare and there is reasonable suspicion that:

- a. the child is in need of immediate protection due to an imminent safety threat,
- b. the circumstances or surroundings of the child are such that continuation in the child's home or in the care or custody of the parent, legal guardian, or custodian would present an imminent safety threat to the child, or
- c. the child, including a child with a disability, is unable to communicate effectively about abuse, neglect or other safety threat or is in a vulnerable position due to the inability to communicate effectively and the child is in need of immediate protection due to an imminent safety threat.

The application and order may be verbal and upon being advised by the district attorney or the court of the verbal order, law enforcement shall act on such order. If verbal, the district attorney shall submit a written application and proposed order to the district court within one (1) judicial day from the issuance of the verbal order. Upon approval, the application and order shall be filed with the court clerk; or

3. By order of the district court when the child is in need of medical or behavioral health treatment in order to protect the health, safety, or welfare of the child and the parent, legal guardian, or custodian of the child is unwilling or unavailable to consent to such medical or behavioral health treatment or other

action, the court shall specifically include in the emergency order authorization for such medical or behavioral health evaluation or treatment as it deems necessary.

B. 1. By January 1, 2010, the Department in consultation with law enforcement and the district courts shall develop and implement a system for joint response when a child is taken into protective custody by a peace officer pursuant to paragraph 1 of subsection A of this section. The system shall include:

- a. designation of persons to serve as contact points for peace officers, including at least one backup contact for each initial contact point,
- b. a protocol for conducting a safety evaluation at the scene where protective custody is assumed to determine whether the child faces an imminent safety threat and, if so, whether the child can be protected through placement with relatives or others without the Department assuming emergency custody,
- c. the development of reception centers for accepting protective custody of children from peace officers when the Department is unable to respond at the scene within a reasonable time period,
- d. a protocol for conducting a safety evaluation at the reception center within twenty-three (23) hours of the assumption of protective custody of a child to determine whether the child faces an imminent safety threat and, if so, whether the child can be protected through placement with relatives or others without the Department assuming emergency custody, and
- e. a protocol, when the child cannot safely be left in the home, for transporting a child to the home of a relative, kinship care home, an emergency foster care home, a shelter, or any other site at which the Department believes the child can be protected, provided that the Department shall utilize a shelter only when the home of a relative, kinship care home, or emergency foster care home is unavailable or inappropriate.

2. Beginning January 1, 2010, no child taken into protective custody under paragraph 1 of subsection A of this section shall be considered to be in the emergency custody of the Department until the Department has completed a safety evaluation and has concluded that the child faces an imminent safety threat and the court has issued an order for emergency custody.

3. If the safety evaluation performed by the Department of a child taken into protective custody under paragraph 1 of subsection A of this section indicates that the child does not face an imminent

safety threat, the Department shall restore the child to the custody and control of the parent, legal guardian, or custodian of the child.

C. When an order issued by the district court pursuant to subsection A of this section places the child in the emergency custody of the Department of Human Services pending further hearing specified by Section 1-4-203 of this title, an employee of the Department may execute such order and physically take the child into custody in the following limited circumstance:

1. The child is located in a hospital, school, or day care facility; and
2. It is believed that assumption of the custody of the child from the facility can occur without risk to the child or the employee of the Department.

Otherwise, the order shall be executed and the child taken into custody by a peace officer or employee of the court.

D. The court shall not enter a prepetition emergency custody order removing a child from the home of the child unless the court makes a determination:

1. That an imminent safety threat exists and continuation in the home of the child is contrary to the welfare of the child; and
2. Whether reasonable efforts have been made to prevent the removal of the child from the child's home; or
3. An absence of efforts to prevent the removal of the child from the home of the child is reasonable because the removal is due to an emergency and is for the purpose of providing for the safety and welfare of the child.

E. Whenever a child is taken into custody pursuant to this section:

1. The child may be taken to a kinship care home or an emergency foster care home designated by the Department, or if no such home is available, to a children's shelter located within the county where protective or emergency custody is assumed or, if there is no children's shelter within the county, to a children's shelter designated by the court;
2. Unless otherwise provided by administrative order entered pursuant to subsection F of this section, the child may be taken before a judge of the district court or the court may be contacted verbally for the purpose of obtaining an order for emergency custody. The court may place the child in the emergency custody of the Department or some other suitable person or entity pending further hearing specified by Section 1-4-203 of this title;
3. The child may be taken directly to or retained in a health care facility for medical treatment, when the child is in need of emergency medical treatment to maintain the child's health, or as otherwise directed by the court; or
4. The child may be taken directly to or retained in a behavioral health treatment facility for evaluation or inpatient

treatment, in accordance with the provisions of the Inpatient Mental Health and Substance Abuse Treatment of Minors Act, when the child is in need of behavioral health care to preserve the child's health, or as otherwise directed by the court; and

5. Unless otherwise provided by administrative order entered pursuant to subsection F of this section, the district court of the county where the custody is assumed shall be immediately notified, verbally or in writing, that the child has been taken into custody. If notification is verbal, written notification shall be sent to the district court within one (1) judicial day of such verbal notification.

F. The court may provide, in an administrative order issued pursuant to this section, for the disposition of children taken into custody and notification of the assumption of such custody.

1. Such order or rule shall be consistent with the provisions of subsection E of this section and may include a process for release of a child prior to an emergency custody hearing. The administrative order shall not include a provision to modify protective custody of a child to emergency custody of the Department upon admission of a child to a shelter; and

2. The administrative order may require joint training of peace officers and Department staff deemed necessary by the court to carry out the provisions of the administrative order.

G. No child taken into custody pursuant to this section shall be confined in any jail, adult lockup, or adult or juvenile detention facility.

H. When a determination is made by the Department that there is a significant risk of abuse or neglect, but there is not an imminent safety threat to the child, the Department may recommend a court-supervised and Department-monitored in-home placement. The Department shall assist the family in obtaining the services necessary to maintain the in-home care and correct the conditions leading to the risk determination.

I. Any peace officer, employee of the court, or employee of the Department is authorized to transport a child when acting pursuant to this section. Such persons and any other person acting under the direction of the court, who in good faith transports any child or carries out duties pursuant to this section, shall be immune from civil or criminal liability that may result by reason of such act. For purposes of any proceedings, civil or criminal, the good faith of any such person shall be presumed. This provision shall not apply to damage or injury caused by the willful, wanton or gross negligence or misconduct of a person.

J. A parent or person responsible for the child who is arrested on a charge or warrant other than child abuse or neglect or an act of child endangerment may designate another person to take physical

custody of the child. Upon this request, the peace officer may release the child to the physical custody of the designated person. Added by Laws 1968, c. 282, § 107, eff. Jan. 13, 1969. Amended by Laws 1969, c. 283, § 1, emerg. eff. April 25, 1969; Laws 1973, c. 27, § 1, emerg. eff. April 18, 1973; Laws 1976, c. 102, § 1, emerg. eff. May 12, 1976; Laws 1977, c. 259, § 8, eff. Oct. 1, 1977; Laws 1980, c. 169, § 1, eff. Jan. 1, 1981; Laws 1981, c. 238, § 2, eff. Oct. 1, 1981; Laws 1982, c. 312, § 17, operative Oct. 1, 1982; Laws 1989, c. 363, § 3, eff. Nov. 1, 1989; Laws 1990, c. 302, § 5, eff. Sept. 1, 1990; Laws 1992, c. 298, § 20, eff. July 1, 1993; Laws 1993, c. 342, § 5, eff. July 1, 1993; Laws 1994, c. 2, § 2, emerg. eff. March 2, 1994; Laws 1994, c. 290, § 34, eff. July 1, 1994; Laws 1995, c. 217, § 3, eff. July 1, 1995; Laws 1995, c. 352, § 10, eff. July 1, 1995. Renumbered from § 1107 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 2000, c. 374, § 9, eff. July 1, 2000; Laws 2001, c. 143, § 1, eff. July 1, 2001; Laws 2002, c. 445, § 5, eff. Nov. 1, 2002; Laws 2003, c. 3, § 5, emerg. eff. March 19, 2003; Laws 2009, c. 233, § 18, emerg. eff. May 21, 2009. Renumbered from § 7003-2.1 of Title 10 by Laws 2009, c. 233, § 226, emerg. eff. May 21, 2009. Amended by Laws 2009, c. 338, § 5, eff. July 1, 2009; Laws 2014, c. 355, § 3, eff. Nov. 1, 2014.

NOTE: Laws 1990, c. 238, § 5 repealed by Laws 1991, c. 335, § 36, emerg. eff. June 15, 1991. Laws 1993, c. 208, § 2 and Laws 1993, c. 320, § 1 repealed by Laws 1994, c. 2, § 34, emerg. eff. March 2, 1994. Laws 2002, c. 327, § 16 repealed by Laws 2003, c. 3, § 6, emerg. eff. March 19, 2003.

§10A-1-4-202. Written notification of emergency custody hearing.

A. The peace officer, employee of the court, or the employee of the Department of Human Services responsible for assuming physical custody of a child shall provide the parent, legal guardian, or physical custodian of the child with immediate written notice of the protective or emergency custody of the child if personally present, or if not present as soon as possible.

B. The written notices shall inform the parents, legal guardian, or custodian of the following:

1. That an emergency custody hearing to determine custody of the child will occur within two (2) judicial days from the date the child was taken into custody;

2. The date, time, and place for the emergency custody hearing;

3. The nature of the allegation that led to placement of the child into protective or emergency custody;

4. The address and telephone number of the applicable law enforcement agency and the Department; and

5. The right to contact an attorney.

C. The written notice shall also contain the following language: "FAILURE TO RESPOND TO THIS NOTICE OR TO APPEAR AT THE EMERGENCY

CUSTODY HEARING MEANS YOUR CHILD WILL REMAIN IN CUSTODY. YOUR FAILURE TO RESPOND OR COOPERATE MEANS YOU MAY LOSE CUSTODY OF THIS CHILD OR YOUR RIGHTS AS A PARENT MAY BE TERMINATED."

Added by Laws 1995, c. 352, § 13, eff. July 1, 1995. Amended by Laws 1998, c. 421, § 7, emerg. eff. June 11, 1998; Laws 2000, c. 374, § 11, eff. July 1, 2000; Laws 2001, c. 141, § 2, emerg. eff. April 30, 2001; Laws 2005, c. 120, § 1, eff. July 1, 2005; Laws 2007, c. 196, § 1, eff. July 1, 2007; Laws 2008, c. 293, § 2, emerg. eff. June 2, 2008; Laws 2009, c. 233, § 19, emerg. eff. May 21, 2009. Renumbered from § 7003-2.4 of Title 10 by Laws 2009, c. 233, § 227, emerg. eff. May 21, 2009.

NOTE: Laws 2009, c. 160, § 1 repealed by Laws 2016, c. 10, § 1, eff. Nov. 1, 2016.

§10A-1-4-203. Emergency custody hearing - Affidavit - Notice to relatives.

A. Within the next two (2) judicial days following the child being taken into protective or emergency custody, the court shall conduct an emergency custody hearing. At the hearing, information may be provided to the court in the form of oral or written reports, affidavits or testimony. Any information having probative value may be received by the court regardless of its admissibility under the Oklahoma Evidence Code. At the hearing the court shall:

1. Determine whether facts exist that are sufficient to demonstrate to the court there is reasonable suspicion that the child is in need of immediate protection due to abuse or neglect, or that the circumstances or surroundings of the child are such that continuation of the child in the child's home or in the care or custody of the parent, legal guardian, or custodian would present an imminent danger to the child;

2. Advise the parent, legal guardian, or custodian of the child in writing of the following:

- a. any right of the parent, legal guardian, or custodian to testify and present evidence at court hearings,
- b. the right to be represented by an attorney at court hearings,
- c. the consequences of failure to attend any hearings which may be held, and
- d. the right to appeal and procedure for appealing an order of the court;

3. Determine custody of the child and order one of the following:

- a. release of the child to the custody of the child's parent, legal guardian, or custodian from whom the child was removed under any conditions the court finds reasonably necessary to protect the health, safety, or welfare of the child, or

- b. placement of the child in the custody of a responsible adult or licensed child-placing agency under any conditions the court finds reasonably necessary to protect the health, safety, or welfare of the child, or
- c. whether to continue the child in or to place the child into the emergency custody of the Department of Human Services;

4. Order the parent, legal guardian, or custodian to complete an affidavit listing the names, addresses, and phone numbers of any parent, whether known or alleged, grandparent, aunt, uncle, brother, sister, half-sibling, and first cousin and any comments concerning the appropriateness of the potential placement of the child with the relative. If no such relative exists, the court shall require the parent, legal guardian, or custodian to list any other relatives or persons with whom the child has had a substantial relationship or who may be a suitable placement for the child;

5. Direct the parent, legal guardian, or custodian to furnish the Department with a copy of the child's birth certificate within fifteen (15) days from the hearing if a petition is filed, unless otherwise extended by the court; and

6. In accordance with the safety or well-being of any child, determine whether reasonable efforts have been made to:

- a. place siblings, who have been removed, together in the same foster care, guardianship, or adoptive placement, and
- b. provide for frequent visitation or other ongoing interaction in the case of siblings who have been removed and who are not placed together.

B. The office of the State Court Administrator shall create an affidavit form and make it available to each court responsible for conducting emergency custody hearings. The affidavit form shall contain a notice to the parent, legal guardian, or custodian that failure to identify a parent or relative in a timely manner may result in the child being permanently placed outside of the home of the child's parent or relative. The affidavit form shall also advise the parent, legal guardian, or custodian of the penalties associated with perjury and contempt of court. The original completed affidavit shall be filed with the court clerk no later than five (5) days after the hearing or as otherwise directed by the court and a copy shall be provided to the Department.

C. 1. The Department shall, within thirty (30) days of the removal of a child, exercise due diligence to identify relatives. Notice shall be provided by the Department to the following adult relatives: all grandparents, all parents of a sibling of the child, where the parent has legal custody of the sibling, and other adult relatives of the child, including relatives suggested by the parents, as the court directs. The notice shall advise the relatives:

- a. the child has been or is being removed from the custody of the parent or parents of the child,
- b. of the options under applicable law to participate in the care and placement of the child, including any options that may be lost by failing to respond to the notice, and
- c. of the requirements to become a foster family home and the additional services and supports available for children placed in the home.

2. Relatives shall not be notified if notification would not be in the best interests of a child due to past or current family or domestic violence. The Department may promulgate rules in furtherance of the provisions of this subsection. Added by Laws 2009, c. 233, § 113, emerg. eff. May 21, 2009. Amended by Laws 2015, c. 173, § 2, eff. Nov. 1, 2015.

§10A-1-4-204. Placement preferences.

A. 1. When awarding custody or determining the placement of a child, a preference shall be given to relatives and persons who have a kinship relationship with the child. The Department of Human Services shall make diligent efforts to place the child with such persons and shall report to the court the efforts made to secure that placement. In cases where the Indian Child Welfare Act applies, the placement preferences of the act shall be followed. The Department shall verify applicability of the Indian Child Welfare Act within three (3) months of the child being taken into custody.

2. When two or more children are siblings, every reasonable attempt shall be made to place the siblings in the same home, except as provided in paragraph 3 of this subsection. In making a permanent placement, siblings shall be placed in the same permanent home or, if the siblings are separated, shall be allowed contact or visitation with each other; provided, however, the best interests of each sibling shall be the standard for determining the appropriate custodian or placement as well as the contact and visitation with the other siblings.

3. Siblings may be separated if the court and the Department find that placement of siblings together would be contrary to the safety or well-being of any of the siblings, and:

- a. one sibling has resided in a foster family home for six (6) or more months and has established a relationship with the foster family,
- b. the siblings have never resided in the same home together,
- c. there is no established relationship between the siblings, or
- d. it is in the best interests of the child to remain in the current foster family home placement.

B. In determining the appropriate custodian or placement for a child pursuant to subsection A of this section, the court and the Department shall consider, but not be limited to, the following factors:

1. The ability of the person being considered to provide safety for the child, including a willingness to cooperate with any restrictions placed on contact between the child and others, and to prevent others from influencing the child in regard to the allegations of the case;

2. The ability of the person being considered to support the efforts of the Department to implement the permanent plan for the child;

3. The ability of the person being considered to meet the child's physical, emotional, and educational needs, including the child's need to continue in the same school or educational placement;

4. The person who has the closest existing personal relationship with the child if more than one person requests placement of the child pursuant to this section;

5. The ability of the person being considered to provide a placement for the child's sibling who is also in need of placement or continuation in substitute care;

6. The wishes of the parent, the relative, and the child, if appropriate;

7. The ability of the person being considered to care for the child as long as is necessary and to provide a permanent home if necessary; and

8. The best interests of the child.

C. 1. The Department of Human Services shall consider placement with a relative without delay and shall identify relatives of the child and notify them of the need for temporary placement and the possibility of the need for a permanent out-of-home placement of the child. The relative search shall be reasonable and comprehensive in scope and may continue until a fit and willing relative is identified; however, a nationwide relative search shall be conducted by the Department within three (3) months of the child being taken into custody.

2. The relatives shall be notified of the need to keep the Department informed of their current address in order to receive notice when a permanent out-of-home placement is being sought for the child. A relative who fails to provide a current address may forfeit the right to be considered for the child's permanent out-of-home placement.

3. A decision by a relative to not participate in the child's placement planning at the beginning of the case or to cooperate with the Department to expedite procedures for placement of the child in the child's home may affect whether that relative will be considered

for permanent placement of the child if the child cannot be safely returned to the home of the child's parent or parents.

D. The Department, while assessing the relatives for the possibility of placement, shall be authorized to disclose to the relative, as appropriate, the fact that the child is in custody, the alleged reasons for the custody, and the projected date for the child's return home or other permanent placement as well as any other confidential information deemed necessary and appropriate to secure a suitable placement.

E. Following an initial placement with a relative, whenever a new placement of the child is made, consideration for placement shall again be given as described in this section to approved relatives who will fulfill the reunification or permanent plan requirements of the child. The Department shall consider whether the relative has established and maintained a relationship with the child.

F. If the child is not placed with a relative who has been considered for placement pursuant to this section, the Department shall advise the court, in writing, the reasons why that relative was denied and the written reasons shall be made a part of the court record.

G. The provisions of this section shall apply to all custody or placement proceedings which concern a child alleged or adjudicated to be deprived including, but not limited to, guardianship and adoption proceedings.

Added by Laws 2009, c. 233, § 114, emerg. eff. May 21, 2009. Amended by Laws 2016, c. 245, § 1, eff. Nov. 1, 2016; Laws 2017, c. 342, § 3, eff. Nov. 1, 2017; Laws 2019, c. 37, § 1, eff. Nov. 1, 2019.

§10A-1-4-205. Records of child in protective custody - Petition - Hearings - Order providing for removal of a child.

A. The office of the district attorney and the Department of Human Services shall maintain records concerning a child in protective custody who is released prior to the emergency custody hearing. The records shall describe the reason for such release.

B. 1. A petition for a deprived child proceeding shall be filed and a summons issued within seven (7) judicial days from the date the child is taken into custody unless, upon request of the district attorney at the emergency custody hearing, the court determines there are compelling reasons to grant additional time for the filing of the petition for a period of time not to exceed fifteen (15) calendar days from the assumption of custody.

2. If a petition is not filed as required by this subsection, the emergency custody order shall expire. The district attorney shall submit for filing in the court record a written record specifying the reasons why the petition was not filed and specifying to whom the child was released.

C. The court may hold additional hearings at such intervals as may be determined necessary by the court to provide for the health, safety, or welfare of the child.

D. In scheduling hearings, the court shall give priority to proceedings in which a child is in emergency custody.

E. An order of the court providing for the removal of a child alleged to be deprived from the home of the child shall not be entered unless the court makes a determination:

1. That continuation of the child in the child's home is contrary to the health, safety, or welfare of the child; and

2. As to whether or not reasonable efforts were made to prevent the need for the removal of the child from the child's home; or

3. As to whether or not an absence of efforts to prevent the removal of the child from the child's home is reasonable because the removal is due to an alleged emergency and is for the purpose of providing for the health, safety, or welfare of the child; or

4. That reasonable efforts to provide for the return of the child to the child's home are not required pursuant to Section 1-4-809 of Title 10A of the Oklahoma Statutes; provided, however, upon such determination, the court shall inform the parent that a permanency hearing will be held within thirty (30) days from the determination.

Added by Laws 2009, c. 233, § 115, emerg. eff. May 21, 2009.

§10A-1-4-206. Restraining order - Hearing.

A. 1. At the emergency custody hearing or when a petition has been filed alleging that a child has been physically or sexually abused, the court may enter an order restraining the alleged perpetrator of the abuse from having contact with the child or attempting to contact the child and requiring the alleged perpetrator to move from the household in which the child resides. The court may issue a restraining order only if the court finds that:

a. there is a reasonable suspicion that abuse occurred and that the person to be restrained committed the abuse, and

b. the order is in the best interest of the child.

2. The court may also enter other appropriate orders including, but not limited to, orders that control contact between the alleged abuser, other children in the home, and any other person.

3. The court shall include in an order entered under this subsection the following information about the person to be restrained to the extent known by the court at the time the order is entered:

- a. name,
- b. address,
- c. age and birth date,
- d. race,

- e. sex,
- f. height and weight,
- g. color of hair and eyes, and
- h. any other identifying features such as tattoos.

4. The court may include in the order a provision that a peace officer accompany the restrained person to the household when it is necessary for the restrained person to remove personal property.

B. If the court enters an order under this section:

1. The clerk of the court shall provide without charge the number of certified true copies of the order and petition, if available, necessary to effect service and shall deliver the same to the sheriff or other person qualified to serve the order for service upon the person to be restrained; and

2. The sheriff or other person qualified to serve the order shall serve the person to be restrained personally unless that person is present at the hearing. After accepting the order, if the sheriff or other person cannot complete service within ten (10) days, the sheriff or other person shall file a return to the clerk of the court showing that service was not completed and the reason for the noncompletion.

C. Within thirty (30) days after an order is served under this section, the restrained person may file a written request with the court and receive a court hearing on any portion of the order. If the restrained person requests a hearing under this subsection:

1. The court shall notify the parties and the restrained person of the date and time of the hearing; and

2. The court shall hold a hearing within twenty-one (21) days after the request for hearing is filed with the court and at the conclusion of the hearing may cancel or modify the order.

D. 1. Within twenty-four (24) hours of the return of service of the restraining order, the clerk of the issuing court shall send certified copies thereof to all appropriate law enforcement agencies designated by the court. A certified copy of any extension, modification, vacation, cancellation, or consent agreement concerning the restraining order shall be sent by the clerk of the issuing court to those law enforcement agencies receiving the original orders pursuant to this section and to any law enforcement agencies designated by the court.

2. Any law enforcement agency receiving copies of the documents listed in paragraph 1 of this subsection shall be required to ensure that other law enforcement agencies have access twenty-four (24) hours a day to the information contained in the documents which may include entry of information about the restraining order in the National Crime Information Center database.

E. A restraining order issued pursuant to this section remains in effect for a period of one (1) year or until the order is sooner modified, amended, or terminated by court order.

F. A court that issued a restraining order under this section may renew the order for a period of up to one (1) year if the court finds that there is probable cause to believe the renewal is in the best interest of the child. The court may renew the order on motion by the state or the child's attorney alleging facts supporting the required finding. If the renewal order is granted, subsections B and C of this section apply.

G. If a restraining order issued pursuant to this section is terminated before its expiration date, the clerk of the court shall promptly deliver a true copy of the termination order to the sheriff. The sheriff shall promptly remove the original order from the National Crime Information Center database.

H. Any person who has been served with the restraining order and is in violation of the restraining order, upon conviction, shall be guilty of a misdemeanor and shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by a term of imprisonment in the county jail of not more than one (1) year, or both such fine and imprisonment.

Added by Laws 2009, c. 233, § 116, emerg. eff. May 21, 2009.

§10A-1-4-207. Immediate assumption of custody to protect child's health or welfare.

Nothing contained in the Oklahoma Children's Code shall prevent a court from immediately assuming custody of a child and ordering whatever action may be necessary, including medical or behavioral health treatment, to protect the child's health, safety, or welfare. Added by Laws 1995, c. 352, § 44, eff. July 1, 1995. Amended by Laws 1998, c. 421, § 27, emerg. eff. June 11, 1998; Laws 2009, c. 233, § 56, emerg. eff. May 21, 2009. Renumbered from § 7003-8.5 of Title 10 by Laws 2009, c. 233, § 228, emerg. eff. May 21, 2009.

§10A-1-4-208. Standardized assessment for children taken into custody.

A. Every child taken into custody by the Department of Human Services pursuant to the Oklahoma Children's Code shall be given a standardized assessment within twenty-one (21) days of entering custody, unless otherwise prescribed by the assessment.

B. The assessment shall evaluate the physical, developmental, medical, mental health and educational needs of the child and shall be considered when developing placement and service plans for the child.

C. The assessment shall be updated by the Department at regular intervals while the child is in the custody of the Department to ensure the needs of the child are being addressed and changes are being documented.

D. The Department may promulgate rules to implement the provisions of this section.

Added by Laws 2019, c. 95, § 1, eff. Nov. 1, 2019.

§10A-1-4-301. Petitions.

A. 1. A petition in a proceeding alleging a child to be deprived may be filed by the district attorney to determine if further action is necessary. The proceeding shall be entitled "In the matter of \_\_\_\_\_, an alleged deprived child".

2. The petition shall be verified and may be upon information and belief. The petition shall set forth:

- a. with particularity, facts which bring the child within the purview of this chapter,
- b. the name, date of birth, and residence of the child,
- c. the names and residences of the child's parents,
- d. the name and residence of the child's legal guardian, if there is one,
- e. the name and residence of the person or persons having custody or control of the child,
- f. the name and residence of the nearest known relative, if no parent, legal guardian or custodian of the child can be found, and
- g. the relief requested including, but not limited to, or where applicable:
  - (1) an adjudication that the child is deprived,
  - (2) a termination of parental rights,
  - (3) the entry of an order for child support, and
  - (4) a judicial determination of the child's paternity.

3. If any of the facts herein required are not known by the petitioner, the petition shall so state, along with the reasons why such facts are not known to petitioner.

B. A petition alleging a child to be a minor in need of treatment shall be filed by a district attorney pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Minors Act as provided for in Sections 5-501 through 5-513 of Title 43A of the Oklahoma Statutes.

C. A copy of the petition alleging a child to be deprived shall be attached to and delivered with the summons.

D. Any petition filed by the district attorney shall be signed by the district attorney or authorized assistant.

Added by Laws 1968, c. 282, § 103, eff. Jan. 13, 1969. Amended by Laws 1971, c. 66, § 1, eff. Oct. 1, 1971; Laws 1973, c. 142, § 1, emerg. eff. May 10, 1973; Laws 1976, c. 51, § 1, emerg. eff. April 12, 1976; Laws 1977, c. 259, § 3, eff. Oct. 1, 1977; Laws 1982, c. 312, § 15, operative Oct. 1, 1982; Laws 1990, c. 302, § 2, eff. Sept. 1, 1990; Laws 1992, c. 298, § 17, eff. July 1, 1993; Laws 1994, c. 290, § 31, eff. July 1, 1994; Laws 1995, c. 352, § 15, eff. July 1, 1995. Renumbered from § 1103 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1998, c. 421, § 8, emerg.

eff. June 11, 1998; Laws 2002, c. 327, § 17, eff. July 1, 2002; Laws 2009, c. 233, § 21, emerg. eff. May 21, 2009. Renumbered from § 7003-3.1 of Title 10 by Laws 2009, c. 233, § 229, emerg. eff. May 21, 2009.

§10A-1-4-302. Amendment of petition - Postadjudication petition.

A. No pleading subsequent to the petition alleging a child to be deprived is required, and the filing of any motion or pleading shall not delay the holding of the adjudicatory hearing.

B. The court shall liberally allow the petition to be amended at any time to add, modify, or supplement factual allegations that form the basis for the cause of action up until seven (7) days prior to the adjudicatory hearing. The court may grant leave to amend the petition upon a showing of good cause after that date and prior to the adjudicatory hearing. The court may allow amendment of the petition to conform with the evidence at any time prior to the adjudicatory ruling of the court. In all cases in which the court has granted leave to amend based on new evidence or new allegations, the court shall permit the respondent a reasonable and adequate opportunity to prepare as may be required to insure a full and fair hearing. The court shall not amend the adjudicatory category prayed for in the petition.

C. In any case in which the allegations contained within the original petition have been sustained and a child is found to be a deprived child, if the state subsequently alleges new facts, or different conditions are discovered to be sufficient, if sustained, to support a finding that the child is a deprived child, then the state may file a subsequent petition entitled "Postadjudication Petition". This section shall not apply if the jurisdiction of the juvenile court has been terminated prior to the new allegations.

D. All procedures and hearings required for an original petition are applicable to a postadjudication petition filed under this section. The postadjudication petition shall be filed in the same case as the original petition.

Added by Laws 1977, c. 259, § 4, eff. Oct. 1, 1977. Amended by Laws 1995, c. 352, § 17, eff. July 1, 1995. Renumbered from § 1103.1 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 2009, c. 233, § 22, emerg. eff. May 21, 2009. Renumbered from § 7003-3.3 of Title 10 by Laws 2009, c. 233, § 230, emerg. eff. May 21, 2009.

§10A-1-4-303. Summons - Contents - Waiver of service.

A. 1. Upon the filing of the petition, the court shall schedule a hearing and shall issue a summons requiring the parents, legal guardian, custodian, the child if the child is twelve (12) or more years of age, and any other persons the court determines to be proper or necessary parties to the proceedings to appear personally before

the court at the date, time, and place stated in the summons. The court may endorse upon the summons an order directing the parent, guardian, custodian, or other person having the physical custody or control of the child to bring the child to the hearing.

2. The summons shall be attached to a copy of the petition and shall advise the parties of the right to counsel, including the right of the child's parent or legal guardian to court-appointed counsel if indigent.

3. The summons shall state the relief requested, including notice that child support may be ordered or modified and that the child's paternity, if at issue, may be established.

4. The summons shall also contain, in type at least as large as the balance of the document, the following or substantially similar language: "FAILURE TO RESPOND TO THIS SUMMONS OR TO APPEAR AT THIS HEARING CONSTITUTES CONSENT TO THE ADJUDICATION OF THIS CHILD (OR THESE CHILDREN) AS DEPRIVED CHILDREN AND MAY ULTIMATELY RESULT IN LOSS OF CUSTODY OF THIS CHILD OR THE TERMINATION OF PARENTAL RIGHTS TO THIS CHILD."

B. A party other than the child may waive service of summons in writing or by voluntary appearance at the hearing. A child's counsel may waive service of summons on the child's behalf.

C. If it subsequently appears that a person who should have been served was not served and has not entered an appearance, the court shall immediately order the issuance of a summons which shall be served on the person.

Added by Laws 1968, c. 282, § 104, eff. Jan. 13, 1969. Amended by Laws 1977, c. 259, § 5, eff. Oct. 1, 1977; Laws 1981, c. 238, § 1, eff. Oct. 1, 1981; Laws 1988, c. 318, § 2, emerg. eff. July 6, 1988; Laws 1990, c. 238, § 3, emerg. eff. May 21, 1990; Laws 1993, c. 342, § 3, eff. July 1, 1993; Laws 1995, c. 352, § 18, eff. July 1, 1995. Renumbered from § 1104 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1996, c. 353, § 17, eff. Nov. 1, 1996; Laws 1998, c. 421, § 9, emerg. eff. June 11, 1998; Laws 2009, c. 233, § 23, emerg. eff. May 21, 2009. Renumbered from § 7003-3.4 of Title 10 by Laws 2009, c. 233, § 231, emerg. eff. May 21, 2009.

§10A-1-4-304. Service of summons.

A. 1. Service of summons shall be made by personal delivery, by mail, or by publication as provided for in civil actions pursuant to Section 2004 of Title 12 of the Oklahoma Statutes or any successor statute.

2. The court shall not hold the adjudication hearing until at least forty-eight (48) hours after the service of summons.

3. If the parent or legal guardian is not served within the state, the court shall not hold the hearing until at least five (5) days after the date of mailing the summons.

4. The state shall conduct a distinct and meaningful search of all reasonably available sources to locate and notify the parents and legal guardians of proceedings being held pursuant to the Oklahoma Children's Code; provided, that a hearing shall not be delayed if a parent or legal guardian cannot be located.

B. 1. Before service by publication is authorized, the state shall file an affidavit with the court stating that after a distinct and meaningful search of all reasonably available sources, the parent or legal guardian of the child could not be identified or located, as applicable, and describing the diligent efforts made to identify, locate, and serve the party. The affidavit shall be sufficient evidence of the diligence exercised by the state to identify or locate a party who is the subject of the publication notice. An affidavit prepared by the Department describing a distinct and meaningful search of all reasonably available sources to locate a party may be adopted by the state as evidence of additional efforts made to locate or identify the party.

2. Upon complying with this subsection, the state may obtain an order from the court authorizing service to be made upon the party by publication. A copy of the petition and summons shall also be mailed by regular first-class mail to the party at his or her last-known place of residence. Service by publication is complete on the date of the last publication in accordance with paragraph 3 of this subsection.

3. The publication notice may be directed to all persons known, alleged, presumed, or claiming to be the father, mother, or legal guardian of the child. If the name of a party is unknown, the notice shall be directed to the unknown father, mother, or legal guardian, as applicable, and such notice, when published pursuant to this subsection, shall apply to and be binding upon those persons whose names are unknown. The notice shall contain the name of the court and the case number, the initials of the child who is the subject of the proceedings, the date and location of the birth of the child, the name of the mother and father of the child, if known, the time and date of the hearing, and the purpose of the hearing. The notice shall also contain, in type at least as large as the balance of the document, the following or substantially similar language:

"FAILURE TO APPEAR AT THIS HEARING CONSTITUTES CONSENT TO THE ADJUDICATION OF THIS CHILD AS A DEPRIVED CHILD AND MAY ULTIMATELY RESULT IN LOSS OF CUSTODY OF THIS CHILD OR THE TERMINATION OF PARENTAL RIGHTS TO THIS CHILD."

An affidavit showing publication of the notice shall be filed with the court clerk. The publication of notice shall be deemed equivalent to personal service upon all persons, known or unknown, who have been designated in the notice.

4. Service by publication shall be made by publishing a notice one time at least twenty-five (25) days prior to the date fixed for

the hearing. Service shall be made in a newspaper authorized by law to publish legal notices which is published in the county where the petition is filed. If no newspaper authorized by law to publish legal notices is published in the county, the notice shall be published in some such newspaper of general circulation which is published in an adjoining county.

C. Notice by publication may proceed simultaneously with efforts to serve notice by personal delivery or by mail upon a determination by the court that there is reason to believe service by personal delivery or by mail will not be successful.

D. Costs of publication shall be paid by the court fund and assessed as costs against the child's parents and legal guardian as applicable.

Added by Laws 1968, c. 282, § 105, eff. Jan. 13, 1969. Amended by Laws 1977, c. 259, § 7, eff. Oct. 1, 1977; Laws 1990, c. 302, § 4, eff. Sept. 1, 1990; Laws 1992, c. 298, § 19, eff. July 1, 1993; Laws 1995, c. 352, § 19, eff. July 1, 1995. Renumbered from § 1105 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1997, c. 386, § 3, emerg. eff. June 10, 1997; Laws 1998, c. 421, § 10, emerg. eff. June 11, 1998; Laws 2009, c. 233, § 24, emerg. eff. May 21, 2009. Renumbered from § 7003-3.5 of Title 10 by Laws 2009, c. 233, § 232, emerg. eff. May 21, 2009. Amended by Laws 2009, c. 338, § 6, eff. July 1, 2009; Laws 2010, c. 278, § 4, eff. Nov. 1, 2010.

§10A-1-4-305. Failure to appear without reasonable cause - Consent to adjudication - Contempt - Warrants.

A. Failure of a person summoned as provided in this part to respond or appear without reasonable cause constitutes the person's consent to an adjudication of the child to be deprived.

B. If any person summoned as provided in this part fails to respond or appear without reasonable cause, such person may be held in contempt of court.

C. In case the summons cannot be served, or the parties served fail to obey the same, or in any case when it shall be made to appear to the judge that the service will be ineffectual, that the health, safety, or welfare of the child requires that the child should be brought into the custody of the court, a warrant may be issued against the parent, legal guardian, custodian of the child, or the child.

Added by Laws 1968, c. 282, § 106, eff. Jan. 13, 1969. Amended by Laws 1995, c. 352, § 20, eff. July 1, 1995. Renumbered from § 1106 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1996, c. 353, § 18, eff. Nov. 1, 1996; Laws 1998, c. 421, § 11, emerg. eff. June 11, 1998; Laws 2009, c. 233, § 25, emerg. eff. May 21, 2009. Renumbered from § 7003-3.6 of Title 10 by Laws 2009, c. 233, § 233, emerg. eff. May 21, 2009.

§10A-1-4-306. Appointment of counsel - Guardians ad litem - Court-appointed special advocates.

- A. 1. a. If a parent or legal guardian of the child requests an attorney and is found to be indigent, counsel may be appointed by the court at the emergency custody hearing and shall be appointed if a petition has been filed alleging that the child is a deprived child; provided, that the court may appoint counsel without such request, if it deems representation by counsel necessary to protect the interest of the parent, legal guardian, or custodian.
- b. The court shall not be required to appoint an attorney for any person other than a parent, or legal guardian of the child pursuant to the provisions of this paragraph.
2. a. The court may appoint an attorney or a guardian ad litem for the child when an emergency custody hearing is held; provided, that when a petition is filed alleging the child to be deprived, the court shall appoint a separate attorney for the child, who shall not be a district attorney, regardless of any attempted waiver by the parent, legal guardian or custodian of the child of the right of the child to be represented by counsel. The child's attorney shall be independent of and not selected by the district attorney, the child's parent, legal guardian, or custodian. If financially capable, the parent, legal guardian or custodian shall reimburse the Court Fund for the services of a court-appointed attorney for the child.
- b. The attorney appointed for the child shall make arrangements to meet with the child as soon as possible after receiving notification of the appointment. Except for good cause shown, the attorney shall meet with the child prior to any hearing in such proceeding. The attorney may speak with the child over the telephone if a personal visit is not possible due to exigent circumstances. If a meaningful attorney-client relationship between the child and the attorney is prohibited due to age or disability of the child, the attorney shall contact the custodian or caretaker of the child prior to the hearing.
- c. The attorney shall represent the child and any expressed interests of the child. To the extent that a child is unable to express an interest, either because the child is preverbal, very young or for any reason is incapable of judgment and meaningful communication, the

attorney shall substitute his or her judgment for that of the child and formulate and present a position which serves the best interests of the child. Such formulation must be accomplished through the use of objective criteria rather than solely the life experience or instinct of the attorney. The objective criteria shall include, but not be limited to:

- (1) a determination of the circumstances of the child through a full and efficient investigation,
- (2) assessment of the child at the moment of the determination,
- (3) examination of all options in light of the permanency plans available to the child, and
- (4) utilization of medical, mental health and educational professionals, social workers and other related experts.

The attorney shall make such further inquiry as the attorney deems necessary to ascertain the facts, to interview witnesses, examine and cross-examine witnesses, make recommendations to the court and participate further in the proceedings to the degree appropriate for adequately representing the interests of the child. A child is a party to all deprived proceedings and is therefore able to participate as fully as the parents and the district attorney in all aspects of the proceedings including, but not limited to, voir dire, cross-examination, the subpoena of witnesses, and opening and closing statements.

3. The attorney shall be allowed a reasonable fee for such services as determined by the court.

4. When an attorney is required to travel to more than one district court location in order to represent a child or children whom the attorney has been court-appointed to represent, the court may in its discretion allow the attorney a reasonable reimbursement for mileage.

5. The court shall ensure that the child is represented by independent counsel throughout the pendency of the deprived action.

B. 1. After a petition is filed, the court shall appoint a guardian ad litem upon the request of the child or the attorney of the child, and may appoint a guardian ad litem sua sponte or upon the request of the Department of Human Services, a licensed child-placing agency, or another party to the action.

2. A guardian ad litem shall not be a district attorney, an employee of the office of the district attorney, the child's attorney, an employee of the court, an employee of a juvenile bureau, or an employee of any public agency having duties or responsibilities towards the child.

3. The guardian ad litem shall be appointed to objectively advocate on behalf of the child and act as an officer of the court to

investigate all matters concerning the best interests of the child. In addition to other duties required by the court and as specified by the court, a guardian ad litem shall have the following responsibilities:

- a. review documents, reports, records and other information relevant to the case, meet with and observe the child in appropriate settings, including the child's current placement, and interview parents, foster parents, health care providers, child protective services workers and any other person with knowledge relevant to the case,
- b. advocate for the best interests of the child by participating in the case, attending any hearings in the matter and advocating for appropriate services for the child when necessary,
- c. monitor the best interests of the child throughout any judicial proceeding, and
- d. present written reports on the best interests of the child that include conclusions and recommendations and the facts upon which they are based.

4. The guardian ad litem shall be given access to the court files and agency files and access to all documents, reports, records and other information relevant to the case and to any records and reports of examination of the child's parent or other custodian, made pursuant to the laws relating to child abuse and neglect including reports generated by service providers.

5. The Oklahoma Bar Association shall develop a standard operating manual for guardians ad litem which shall include, but not be limited to, legal obligations and responsibilities, information concerning child abuse, child development, domestic abuse, sexual abuse, and parent and child behavioral health and management including best practices. After publication of the manual, all guardians ad litem shall certify to the court in which he or she is appointed as a guardian ad litem that the manual has been read and all provisions contained therein are understood. The guardian ad litem shall also certify that he or she agrees to follow the best practices described within the standard operating manual. The Administrative Office of the Courts shall provide public access to the standard operating manual by providing a link to the manual on the Oklahoma State Courts Network (OSCN) website.

C. 1. Whenever a court-appointed special advocate program is available to the court to serve as a guardian ad litem, priority may be given to appointment of the court-appointed special advocate to serve as guardian ad litem for the child regardless of whether a guardian ad litem has been requested pursuant to the provisions of this subsection.

2. For purposes of the Oklahoma Children's Code, a "court-appointed special advocate" and a "guardian ad litem" shall have the same function except as otherwise provided by law. In like manner, a court-appointed special advocate, except as specifically otherwise provided by law or by the court, shall have the same power, duties, and responsibilities as assigned to a guardian ad litem by law and shall have such other qualifications, duties, and responsibilities as may be prescribed by rule by the Supreme Court.

3. A court-appointed special advocate shall serve without compensation.

Added by Laws 1968, c. 282, § 109, eff. Jan. 13, 1969. Amended by Laws 1970, c. 226, § 1; Laws 1971, c. 66, § 2, eff. Oct. 1, 1971; Laws 1977, c. 259, § 10, eff. Oct. 1, 1977; Laws 1979, c. 257, § 3, eff. Oct. 1, 1979; Laws 1982, c. 312, § 20, operative Oct. 1, 1982; Laws 1985, c. 313, § 1, eff. Nov. 1, 1985; Laws 1986, c. 263, § 4, operative July 1, 1986; Laws 1989, c. 363, § 6, eff. Nov. 1, 1989; Laws 1991, c. 296, § 24, eff. Sept. 1, 1991; Laws 1992, c. 298, § 22, eff. July 1, 1993; Laws 1994, c. 290, § 37, eff. July 1, 1994; Laws 1995, c. 352, § 21, eff. July 1, 1995. Renumbered from § 1109 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1996, c. 200, § 6, eff. Nov. 1, 1996; Laws 1997, c. 386, § 4, emerg. eff. June 10, 1997; Laws 1998, c. 5, § 3, emerg. eff. March 4, 1998; Laws 1998, c. 421, § 12, emerg. eff. June 11, 1998; Laws 2000, c. 374, § 13, eff. July 1, 2000; Laws 2006, c. 205, § 3, eff. Nov. 1, 2006; Laws 2007, c. 1, § 3, emerg. eff. Feb. 22, 2007; Laws 2007, c. 268, § 1, eff. Nov. 1, 2007; Laws 2009, c. 233, § 26, emerg. eff. May 21, 2009. Renumbered from § 7003-3.7 of Title 10 by Laws 2009, c. 233, § 234, emerg. eff. May 21, 2009. Amended by Laws 2011, c. 129, § 1, eff. Nov. 1, 2011; Laws 2015, c. 271, § 1, eff. Nov. 1, 2015; Laws 2019, c. 417, § 1, eff. Nov. 1, 2019.

NOTE: Laws 1997, c. 366, § 55 repealed by Laws 1998, c. 5, § 29, emerg. eff. March 4, 1998. Laws 2006, c. 136, § 1 repealed by Laws 2007, c. 1, § 4, emerg. eff. Feb. 22, 2007.

§10A-1-4-401. Discovery and court rules concerning juvenile proceedings - Exchange of information - Protective order.

A. The provisions of the Oklahoma Discovery Code and the Rules for District Courts of Oklahoma do not apply to juvenile proceedings except as provided by this section.

B. The court may order the parties to exchange information that is not work product and not privileged, including:

1. The assessment and investigation records of the Department of Human Services; provided, all information that identifies the reporter of alleged child abuse or neglect shall be redacted;

2. Law enforcement reports;

3. Any video or audio recording of an interview with the child alleged to be deprived;

4. Any exhibit any party intends to introduce at trial; and
5. The names of any witnesses any party may call and a synopsis of the expected testimony.

C. The court may in its discretion enter a scheduling order, order mediation, and conduct status and settlement conferences as needed during deprived proceedings.

D. All information produced, exchanged, or used during the pendency of the deprived action is confidential and shall be subject to a protective order. The disclosure or use of the information for any other purpose is prohibited except as permitted by law.

Added by Laws 2009, c. 233, § 117, emerg. eff. May 21, 2009.

§10A-1-4-501. District attorney to act as petitioner.

Except as otherwise provided by this Code, the district attorney shall prepare and prosecute every hearing and proceeding within the purview of the Oklahoma Children's Code, and shall act as petitioner in all cases; provided, counsel for the Department of Human Services may, with consent of the district attorney, represent the interests of the state in proceedings involving a child in the permanent legal custody of the Department.

Added by Laws 1995, c. 352, § 43, eff. July 1, 1995. Amended by Laws 1998, c. 421, § 26, emerg. eff. June 11, 1998; Laws 2009, c. 233, § 55, emerg. eff. May 21, 2009. Renumbered from § 7003-8.4 of Title 10 by Laws 2009, c. 233, § 235, emerg. eff. May 21, 2009. Amended by Laws 2019, c. 188, § 1, eff. Nov. 1, 2019.

§10A-1-4-502. Jury trial.

A. A parent entitled to service of summons, the state or a child shall have the right to demand a trial by jury on the sole issue of termination of parental rights only in the following circumstances:

1. When the initial petition to determine if a child is deprived also contains a request for termination of parental rights in which case the court shall determine if the child should be adjudicated deprived and, if so, the jury shall determine if parental rights should be terminated; or

2. When, following a hearing in which the child is adjudicated deprived, a request for termination of parental rights is filed by the state or the child.

B. The demand for a jury trial shall be granted unless waived, or the court on its own motion may call a jury to try any termination of parental rights case. Such jury shall consist of six (6) persons. A party who requests a jury trial and fails to appear in person for such trial, after proper notice and without good cause, may be deemed by the court to have waived the right to such jury trial, and the termination of parental rights shall be by nonjury trial unless another party demands a jury trial or the court determines on its own motion to try the case to a jury.

Added by Laws 1968, c. 282, § 110, eff. Jan. 13, 1969. Amended by Laws 1977, c. 259, § 11, eff. Oct. 1, 1977; Laws 1986, c. 179, § 1, eff. Nov. 1, 1986; Laws 1992, c. 298, § 23, eff. July 1, 1993; Laws 1995, c. 352, § 22, eff. July 1, 1995. Renumbered from § 1110 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 2002, c. 473, § 1, eff. Nov. 1, 2002. Renumbered from § 7003-3.8 of Title 10 by Laws 2009, c. 233, § 236, emerg. eff. May 21, 2009. Amended by Laws 2010, c. 278, § 5, eff. Nov. 1, 2010; Laws 2011, c. 1, § 4, emerg. eff. March 18, 2011; Laws 2016, c. 243, § 1, eff. Nov. 1, 2016.

NOTE: Laws 2010, c. 398, § 1 repealed by Laws 2011, c. 1, § 5, emerg. eff. March 18, 2011.

§10A-1-4-503. Conduct of hearings.

A. All cases initiated by the filing of a petition alleging that a child is deprived shall be heard separately from the trial of other cases against adults. The adjudicative hearings and hearings for termination of parental rights shall be conducted according to the rules of evidence. All other hearings and proceedings conducted pursuant to the Oklahoma Children's Code shall be informal and the rules of evidence shall not apply.

1. a. Except as otherwise provided by this paragraph, all deprived proceedings shall be private unless specifically ordered by the judge to be conducted in public, but persons having a direct interest in the case shall be admitted, except as otherwise determined by the court.
- b. To the extent that deprived proceedings involve discussion of confidential information from any child abuse or neglect report and record, or any information obtained from the Department of Human Services concerning a child or family who is receiving Title IV-B child welfare services, foster care or adoption assistance pursuant to Title IV-E of the Social Security Act (42 U.S.C. 678 et seq.), the confidentiality requirements of those programs apply. Accordingly, such information shall not be discussed in open court. To the extent that confidential information is relevant to the proceedings, it must be discussed in the court's chambers or some other restricted setting, and the pertinent sections of the transcript shall be kept confidential.

2. Stenographic notes or other transcript of the hearings shall be kept as in other cases, but they shall not be open to inspection except by order of the court or as otherwise provided by law.

3. Uniform orders shall be used by the court in all deprived proceedings. The forms shall be prescribed and published by the

Administrative Office of the Courts. The Supreme Court Juvenile Justice Oversight and Advisory Committee, the District Attorneys Council, and the Department shall assist in the development of the orders. In addition to the findings and determinations required to be made by the court pursuant to the Oklahoma Children's Code, the forms shall include a section which will require the court to memorialize the recommendations of the parties and participants made at the hearing as it relates to custody or placement of the child or children.

4. If authorized by the court, any proceeding held pursuant to the Oklahoma Children's Code may be conducted via teleconference communication; provided, that when a parent or child appears for a proceeding via teleconference communication, the attorney representing that parent or child shall personally appear at the hearing. For purposes of this paragraph, "teleconference communication" means participation in the hearing by interactive telecommunication, including telephonic communication by the absent party, those parties present in court, the attorneys and others deemed to be necessary participants to the proceeding including, but not limited to, foster parents and facility staff where a child may be receiving care or treatment. This paragraph shall also apply to proceedings brought pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Minors Act when the subject child is alleged or has been adjudicated to be a deprived child.

B. A child shall not refuse to be a witness in a hearing to determine whether or not the child is deprived. The testimony of the child may be given as provided by this part or as otherwise authorized by law for the protection of child witnesses.

C. A decision determining a child to be deprived must be based on sworn testimony and the child must have the opportunity for cross-examination unless the facts are stipulated.

Added by Laws 1968, c. 282, § 111, eff. Jan. 13, 1969. Amended by Laws 1975, c. 252, § 1, emerg. eff. June 2, 1975; Laws 1991, c. 296, § 8, eff. Sept. 1, 1991; Laws 1992, c. 298, § 24, eff. July 1, 1993; Laws 1993, c. 302, § 1, eff. Sept. 1, 1993; Laws 1994, c. 290, § 38, eff. July 1, 1994; Laws 1995, c. 352, § 23, eff. July 1, 1995. Renumbered from § 1111 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 2000, c. 374, § 14, eff. July 1, 2000; Laws 2006, c. 205, § 4, eff. Nov. 1, 2006; Laws 2009, c. 233, § 27, emerg. eff. May 21, 2009. Renumbered from § 7003-4.1 of Title 10 by Laws 2009, c. 233, § 237, emerg. eff. May 21, 2009. Amended by Laws 2010, c. 278, § 6, eff. Nov. 1, 2010.

§10A-1-4-504. Alternative dispute resolution.

A. At any stage of the proceedings, the court may order, or the parties may voluntarily participate in an alternative dispute resolution process which may include:

1. Family group conferencing;
2. Mediation; or
3. A settlement conference.

B. If a court orders an alternative dispute resolution process, a party who does not wish to participate may file a motion objecting to the order. Any resolution agreed to by the parties through an alternative dispute resolution process shall not be binding on the court.

Added by Laws 2009, c. 233, § 118, emerg. eff. May 21, 2009.

§10A-1-4-505. Admissibility of prerecorded statements of child age 12 or under who is victim of abuse.

A. This section shall apply only to a proceeding brought within the purview of the Oklahoma Children's Code in which a child twelve (12) years of age or younger is alleged to be deprived, and shall apply only to the statement of that child or another child witness.

B. The recording of an oral statement of the child made before the proceedings begin is admissible into evidence if:

1. The court determines in a hearing conducted outside the presence of the jury that the time, content and totality of circumstances surrounding the taking of the statement provide sufficient indicia of reliability so as to render it inherently trustworthy. In determining trustworthiness, the court may consider, among other things, the following factors: the spontaneity and consistent repetition of the statement, the mental state of the declarant, whether the terminology used is unexpected of a child of similar age or of an incapacitated person, and whether a lack of motive to fabricate exists; and the child either:

- a. testifies or is available to testify at the proceedings in open court or through an alternative method pursuant to the provisions of the Uniform Child Witness Testimony by Alternative Methods Act or Section 2611.2 of Title 12 of the Oklahoma Statutes, or
- b. is unavailable as a witness as defined in Section 2804 of Title 12 of the Oklahoma Statutes. When the child is unavailable, such statement may be admitted only if there is corroborative evidence of the act;

2. No attorney for any party is present when the statement is made. However, if appropriate facilities are utilized that allow observation of the child without the child's knowledge or awareness in any way, any such attorney may be present as an observer, but not as a participant, and no such attorney shall have any right to intervene, object, or otherwise make his or her presence known to the child before, after, or during the making of the statement of the child;

3. The recording is both visual and aural and is recorded on film or videotape or by other electronic means;

4. The recording equipment is capable of making an accurate recording, the operator of the equipment is competent, and the recording is accurate and has not been altered;

5. The statement is not made in response to questioning calculated to lead the child to make a particular statement or is otherwise clearly shown to be the child's statement and not made solely as a result of a leading or suggestive question;

6. Every voice on the recording is identified;

7. The person conducting the interview of the child in the recording is present at the proceeding and is available to testify or be cross-examined by any party;

8. Each party to the proceeding is afforded an opportunity to view the recording before the recording is offered into evidence; and

9. A copy of a written transcript of the recording transcribed by a licensed or certified court reporter is available to the parties.

A statement may not be admitted under this subsection unless the proponent of the statement makes known to the parties an intention to offer the statement and the particulars of the statement at least ten (10) days in advance of the proceedings to provide the parties with an opportunity to prepare to answer the statement.

Added by Laws 1984, c. 111, § 1, emerg. eff. April 9, 1984. Amended by Laws 1995, c. 352, § 24, eff. July 1, 1995. Renumbered from § 1147 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 2009, c. 233, § 28, emerg. eff. May 21, 2009. Renumbered from § 7003-4.2 of Title 10 by Laws 2009, c. 233, § 238, emerg. eff. May 21, 2009.

§10A-1-4-506. Taking testimony of child age 12 or under in room other than courtroom - Recording.

A. This section shall apply only to a proceeding brought under the Oklahoma Children's Code in which a child at the time of the testimony is alleged to be deprived, and shall apply only to the testimony of that child or other child witness.

B. 1. When appropriate facilities are reasonably available, the court shall, on the motion of a party to the proceeding, order that the testimony of the child be taken in a room other than the courtroom and be televised by closed-circuit equipment in the courtroom for review by:

- a. the court,
- b. the finder of fact, and
- c. the parties to the proceeding.

2. Only an attorney for each party, an attorney ad litem for the child or other person whose presence would contribute to the welfare and well-being of the child, and persons necessary to operate the equipment may be present in the room with the child during the testimony of the child.

3. Only the attorneys for the parties may question the child. The persons operating the equipment shall be confined to an adjacent room or behind a screen or mirror that permits them to see and hear the child during the testimony of the child, but does not permit the child to see or hear them.

C. 1. The court shall, on the motion of a party to the proceeding, order that the testimony of the child be taken outside the courtroom and be recorded for showing in the courtroom before:

- a. the court,
- b. the finder of fact, and
- c. the parties to the proceeding.

2. Only those persons permitted to be present at the taking of testimony under subsection B of this section may be present during the taking of the child's testimony.

3. Only the attorneys for the parties may question the child, and the persons operating the equipment shall be confined from the child's sight and hearing. The court shall ensure that:

- a. the recording is both visual and aural and is recorded on film or videotape or by other electronic means,
- b. the recording equipment is capable of making an accurate recording, the operator of the equipment is competent, and the recording is accurate and has not been altered,
- c. every voice on the recording is identified, and
- d. each party to the proceeding is afforded an opportunity to view the recording before it is shown in the courtroom, and a copy of a written transcript transcribed by a licensed or certified court reporter is provided to the parties.

D. If the testimony of a child is taken as provided by subsection B or C of this section, the child shall not be compelled to testify in court during the proceeding.

E. If the testimony of a child is taken as provided in subsection B or C of this section, the attorney for any parent shall, on request, be permitted a recess of sufficient length to allow the attorney to consult with his or her client prior to conclusion of the testimony.

Added by Laws 1984, c. 111, § 2, emerg. eff. April 9, 1984. Amended by Laws 1995, c. 352, § 25, eff. July 1, 1995. Renumbered from § 1148 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 2009, c. 233, § 29, emerg. eff. May 21, 2009. Renumbered from § 7003-4.3 of Title 10 by Laws 2009, c. 233, § 239, emerg. eff. May 21, 2009.

§10A-1-4-507. Admissibility of evidence.

In any proceeding resulting from a report made pursuant to Section 1-2-101 of this title or in any proceeding where such a

report or any contents of the report are sought to be introduced into evidence, such report, contents, or other fact related thereto or to the condition of the child or victim who is the subject of the report shall not be excluded on the ground that the matter is or may be the subject of a physician-patient privilege or similar privilege or rule against disclosure.

Added by Laws 1965, c. 43, § 4, emerg. eff. March 18, 1965. Amended by Laws 1984, c. 85, § 3, eff. Nov. 1, 1984; Laws 1995, c. 353, § 13, eff. Nov. 1, 1995. Renumbered from § 848 of Title 21 by Laws 1995, c. 353, § 20, eff. Nov. 1, 1995. Amended by Laws 2009, c. 233, § 91, emerg. eff. May 21, 2009. Renumbered from § 7113 of Title 10 by Laws 2009, c. 233, § 240, emerg. eff. May 21, 2009.

§10A-1-4-508. Immunity for testimony - Records - Statements during evaluation or treatment.

A. At any stage of a proceeding under the Oklahoma Children's Code:

1. The parent or legal guardian, the child's attorney, or the district attorney's office may apply for use immunity for a parent or legal guardian for in-court testimony. The in-court testimony of an immunized parent or legal guardian shall not be used against that parent or legal guardian in a criminal prosecution; provided, however, that the parent or legal guardian may be prosecuted for perjury that occurs during the testimony of the parent or legal guardian in a deprived proceeding;

2. The child's attorney or the district attorney's office may apply for use immunity for any records, documents, or other physical objects produced by the immunized parent or legal guardian in the deprived proceeding, the production of which was compelled by a court order; or

3. The child's attorney or the district attorney's office may apply for use immunity for a parent or legal guardian for any statement that a parent or legal guardian makes in the course of a court-ordered psychological evaluation or treatment program to the professional designated by the Department of Human Services or authorized by the court in furtherance of the court's order. Such immunity shall attach only to those statements made during the course of the actual evaluation or treatment and specifically does not attach to statements made to Department employees, agents, or other representatives in the course of the investigation of alleged child abuse, neglect, or abandonment.

B. Any other information available to the professional designated by the Department or authorized by the court to perform the court-ordered evaluation or treatment shall not be the subject of any application or order for immunity.

Added by Laws 2009, c. 233, § 119, emerg. eff. May 21, 2009.

§10A-1-4-601. Adjudication hearing.

A. The court shall hold an adjudication hearing following the filing of a petition alleging that a child is deprived. The hearing shall be held not more than ninety (90) calendar days following the filing of the petition. The child and the child's parents, guardian, or other legal custodian shall be entitled to not less than twenty (20) days' prior notice of the hearing.

B. 1. The child shall be released from emergency custody in the event the adjudication hearing is delayed beyond ninety (90) days from the date the petition is filed unless the court issues a written order with findings of fact supporting a determination that:

- a. there exists reasonable suspicion that the health, safety, or welfare of the child would be in imminent danger if the child were returned to the home, and
- b. there exists either an exceptional circumstance to support the continuance of the child in emergency custody or the parties and the guardian ad litem, if any, agree to such continuance.

2. If the adjudicatory hearing is delayed pursuant to this subsection, the emergency custody order shall expire unless the hearing on the merits of the petition is held within one hundred eighty (180) days after the actual removal of the child.

C. The release of a child from emergency custody due to the failure of an adjudication hearing being held within the time frame prescribed by this section shall not deprive the court of jurisdiction over the child and the parties or authority to enter temporary orders the court deems necessary to provide for the health, safety, and welfare of the child pending the hearing on the petition.

D. At the adjudication hearing, if the court finds that it is in the best interest of the child, the court shall:

1. Accept a stipulation by the child's parent, guardian, or other legal custodian that the facts alleged in the petition are true and correct;

2. Accept a stipulation by the child's parent, guardian, or other legal custodian that if the state presented its evidence supporting the truth of the factual allegations in the petition to a court of competent jurisdiction, such evidence would be sufficient to meet the state's burden of proving by a preponderance of the evidence that the factual allegations are true and correct; or

3. Conduct a nonjury trial to determine whether the state has met its burden of proving by a preponderance of the evidence that the factual allegations in the petition are true and correct.

E. 1. A decision determining a child to be deprived in a nonjury trial shall be based on sworn testimony.

2. The child, as a party to the proceeding, shall be given the opportunity to cross-examine witnesses and to present a case in chief if desired.

Added by Laws 2009, c. 233, § 120, emerg. eff. May 21, 2009.

§10A-1-4-602. Allegations of petition not supported by evidence.

If the court finds that the factual allegations of the petition are not supported by a preponderance of the evidence, the court shall order the petition dismissed and shall order the child discharged from any custody. The child's parents, guardian or other legal custodian shall also be discharged from any restriction or other previous temporary order.

Added by Laws 1968, c. 282, § 113, eff. Jan. 13, 1969. Amended by Laws 1995, c. 352, § 26, eff. July 1, 1995. Renumbered from § 1113 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 2009, c. 233, § 30, emerg. eff. May 21, 2009. Renumbered from § 7003-4.4 of Title 10 by Laws 2009, c. 233, § 241, emerg. eff. May 21, 2009.

§10A-1-4-603. Order of adjudication finding child to be deprived.

A. If the court finds that:

1. The factual allegations in a petition filed by the state alleging that a child is deprived are supported by a preponderance of the evidence;

2. Such allegations are sufficient to support a finding that the child is deprived; and

3. It is in the best interests of the child that the child be declared to be a deprived child and made a ward of the court, then the court shall sustain the petition, and shall make an order of adjudication finding the child to be deprived and shall adjudge the child as a ward of the court.

B. The order of adjudication shall include a statement that advises the parent that failure to appear at any subsequent hearing or comply with any requirements of the court may result in the termination of parental rights to the child.

C. When a child has been adjudicated deprived, the court shall enter a dispositional order pursuant to the provisions of Section 1-4-707 of this title.

D. When a child has been adjudicated deprived, the parent or other legal custodian shall register with the court clerk within two (2) days of the adjudication and provide a valid, current address or other place where the parent or other legal custodian may be served with a summons. In the event that the address or place where the parent or legal custodian may be served a summons changes during the course of the litigation, the parent or other legal custodian shall have the obligation of filing a change of address form with the clerk. In the event that an amended petition or motion is filed, the address listed on the form of the court clerk shall constitute the last-known address of the parent or other legal custodian unless the

state has actual knowledge of the parent or other legal custodian's location.

Added by Laws 1968, c. 282, § 114, eff. Jan. 13, 1969. Amended by Laws 1982, c. 312, § 21, operative Oct. 1, 1982; Laws 1986, c. 286, § 1, eff. Nov. 1, 1986; Laws 1990, c. 302, § 6, eff. Sept. 1, 1990; Laws 1992, c. 299, § 9, eff. July 1, 1992; Laws 1993, c. 10, § 1, emerg. eff. March 21, 1993; Laws 1994, c. 290, § 40, eff. July 1, 1994; Laws 1995, c. 352, § 27, eff. July 1, 1995. Renumbered from § 1114 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1998, c. 421, § 13, emerg. eff. June 11, 1998; Laws 2009, c. 233, § 31, emerg. eff. May 21, 2009. Renumbered from § 7003-4.5 of Title 10 by Laws 2009, c. 233, § 242, emerg. eff. May 21, 2009.

NOTE: Laws 1992, c. 298, § 25 repealed by Laws 1993, c. 10, § 16, emerg. eff. March 21, 1993.

§10A-1-4-701. Reimbursements and costs by parents able to pay.

A. Upon notice to the parent or other person legally obligated to support the child and upon an opportunity to be heard and a finding of financial ability to pay, the court may order the parent or other person to:

1. Reimburse the Department of Human Services, in whole or in part, for any costs and expenses incurred by the Department in providing any services or authorizing actions taken pursuant to the Oklahoma Children's Code for the child including, but not limited to, all or some part of placement services, medical care and mental health services of a child, as authorized by law;

2. Reimburse any law enforcement agency, in whole or in part, for any costs or expenses incurred by the law enforcement agency for protective custody services or other authorized actions taken pursuant to the Oklahoma Children's Code; and

3. Reimburse the court fund, in whole or in part, for any disbursements made from the court fund in conjunction with the case, including, but not limited to, court-appointed attorney fees, expert witness fees, sheriff's fees, witness fees, transcripts and postage.

B. The court may order the terms and conditions of the payment of costs and expenses described in subsection A of this section. When any parent is financially able but has willfully failed to pay the costs and reimbursements as ordered by the court pursuant to this section, the parent may be held in indirect contempt of court and, upon conviction, shall be punished pursuant to Section 566 of Title 21 of the Oklahoma Statutes.

Added by Laws 1968, c. 282, § 121, eff. Jan. 13, 1969. Amended by Laws 1990, c. 302, § 10, eff. Sept. 1, 1990; Laws 1994, c. 290, § 43, eff. July 1, 1994; Laws 1995, c. 352, § 46, eff. July 1, 1995. Renumbered from § 1121 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1996, c. 353, § 19, eff. Nov. 1, 1996;

Laws 2001, c. 407, § 1, eff. July 1, 2001; Laws 2004, c. 198, § 1, emerg. eff. May 4, 2004; Laws 2009, c. 233, § 58, emerg. eff. May 21, 2009. Renumbered from § 7003-8.7 of Title 10 by Laws 2009, c. 233, § 243, emerg. eff. May 21, 2009.

§10A-1-4-702. Deprived child - Paternity - Support.

A. 1. When paternity of an alleged or adjudicated deprived child has not been established, the court, within six (6) months after the filing of a deprived petition, shall either establish paternity or defer the issue of paternity establishment to the appropriate administrative or district court for any child for whom paternity has not been legally established according to the Uniform Parentage Act.

2. When paternity is at issue, an alleged father and mother of the child named in a deprived petition shall be given notice in the petition and summons that paternity may be established in the deprived action. Oklahoma Child Support Services shall proceed with paternity establishment for any case deferred to the administrative or other district court division under this subsection.

3. After the establishment of paternity, the court shall address current child support pursuant to subsection B of this section. In addition, the court may:

- a. order the father to pay child support for past months when no child support order was in effect according to the provisions of Section 83 of Title 10 of the Oklahoma Statutes, or
- b. reserve or refer the issue of prior support to Oklahoma Child Support Services.

4. The order establishing paternity shall be filed as a separate document and shall not be confidential. The court clerk of the district court where the paternity order has been filed shall provide, upon request, a copy of the order establishing paternity to a representative of Oklahoma Child Support Services. A court order for the release of the order establishing paternity or other information contained in the court record pertaining to paternity and child support shall not be required. The order may be captioned with a different case style in order to establish and enforce a child support order in an action other than the deprived proceeding.

B. 1. Each parent of any child named in a deprived petition shall be given notice in the petition and summons that child support may be ordered or modified in the deprived action.

2. Within six (6) months after the filing of a deprived petition, the court shall address the issue of child support or defer the issue of establishment or enforcement of child support to the appropriate administrative or district court. Oklahoma Child Support Services shall proceed with the establishment or enforcement of child support orders for any case deferred to the administrative or other

district court division under this subsection; provided, Oklahoma Child Support Services shall enforce all child support orders entered by the court.

3. a. If there is an existing order for child support, the existing order shall remain in effect unless the court finds the existing order is not in the best interests of the child or children involved.
- b. The court shall use the child support guidelines as provided for in Sections 118 and 119 of Title 43 of the Oklahoma Statutes in determining the amount each parent is to pay for care and maintenance of a child and issue an order describing the finding of the court.
- c. The court may deviate from the child support guidelines when it is determined necessary in order for the parent to meet the obligations of a court-imposed individualized service plan or for other reasons as the court deems appropriate. If the court deviates from the amount of child support indicated by the child support guidelines, the court shall make specific findings of fact supporting such action.
- d. Each parent shall be individually ordered to pay his or her percentage of the total monthly child support obligation including parents who reside together.
- e. The court shall order the parent to provide medical insurance whenever the parent has insurance available through employment or other group plan, regardless of whether insurance is available at the time the order is entered.
- f. The child support order shall contain an immediate income assignment provision pursuant to Section 115 of Title 43 of the Oklahoma Statutes.
- g. A child support computation form as provided for in Section 120 of Title 43 of the Oklahoma Statutes shall be completed by the court, counsel of record, or may be referred to Oklahoma Child Support Services for completion. Upon being signed by the judge, the computation form shall be incorporated as a part of the child support order.
- h.
  - (1) A standard child support order form shall be used in the deprived action. The form shall be prescribed by Oklahoma Child Support Services and shall be published by the Administrative Office of the Courts.
  - (2) The child support order shall be filed as a separate document and shall not be confidential.
  - (3) The court clerk of the district court where the child support order has been filed shall provide,

upon request, a copy of the support order to a representative of Oklahoma Child Support Services. A court order for the release of the child support order or other information contained in the court record pertaining to child support shall not be required.

- (4) The order may be captioned with a different case style in order to enforce the child support order in an action other than the deprived proceeding.
- i. The child support order may be modified upon a material change in circumstances.
- j. The child support order may be enforced by any method allowed by law.
- k. After a deprived action is dismissed, the most recent child support order entered in the deprived action shall remain in full force and effect, unless the judge presiding over the deprived action orders otherwise. If there was no prior administrative or district court case, the deprived action child support order shall be docketed and filed in a new district court family division action and enforced for current child support and arrearages. If the judge presiding over the deprived action modified a preexisting child support order or if there was an existing administrative or district court case, the child support order entered in the deprived action shall be filed in the existing case and enforced for current child support and arrearages. The child support order may be modified after being docketed in district court.

C. All child support payments shall be paid through the Oklahoma Centralized Support Registry as provided for in Section 413 of Title 43 of the Oklahoma Statutes.

D. When a child's custody is changed from one parent or caretaker to another pursuant to the Oklahoma Children's Code, the change in custody shall transfer child support payments to the new caretaker unless the caretaker is receiving foster care payments or Temporary Assistance to Needy Families payments for the care of the child. Child support payments to the caretaker shall terminate when the child no longer resides with the caretaker.

E. The Department of Human Services shall promulgate rules necessary to implement the provisions of this section. Added by Laws 2004, c. 198, § 2, emerg. eff. May 4, 2004. Amended by Laws 2005, c. 121, § 1, eff. Nov. 1, 2005; Laws 2008, c. 99, § 1, eff. Nov. 1, 2008; Laws 2009, c. 233, § 59, emerg. eff. May 21, 2009. Renumbered from § 7003-8.8 of Title 10 by Laws 2009, c. 233, § 244, emerg. eff. May 21, 2009.

§10A-1-4-703. Examination of child - Investigation of home conditions.

A. After a petition has been filed, the court may order the child to be examined and evaluated by a physician or other appropriate professional to aid the court in making the proper disposition concerning the child. The court may order a behavioral health evaluation of a child as provided by the Inpatient Mental Health and Substance Abuse Treatment of Minors Act.

B. After adjudication and at the request of a judge in any juvenile proceeding, the Department of Human Services shall investigate the home conditions and environment of the child and the financial ability, occupation and earning capacity of the parent, legal guardian or custodian of the child. Upon request by the court of another state, the Department may conduct a similar investigation. Added by Laws 1968, c. 282, § 120, eff. Jan. 13, 1969. Amended by Laws 1977, c. 259, § 13, eff. Oct. 1, 1977; Laws 1982, c. 312, § 22, operative Oct. 1, 1982; Laws 1986, c. 286, § 3, eff. Nov. 1, 1986; Laws 1990, c. 302, § 9, eff. Sept. 1, 1990; Laws 1992, c. 298, § 30, eff. July 1, 1993; Laws 1995, c. 352, § 29, eff. July 1, 1995. Renumbered from § 1120 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 2009, c. 233, § 34, emerg. eff. May 21, 2009. Renumbered from § 7003-5.2 of Title 10 by Laws 2009, c. 233, § 245, emerg. eff. May 21, 2009.

NOTE: Laws 1990, c. 51, § 6 repealed by Laws 1991, c. 335, § 36, emerg. eff. June 15, 1991.

§10A-1-4-704. Individualized service plan.

A. The Department of Human Services or licensed child-placing agency shall prepare and maintain a written individualized service plan for any child that has been adjudicated to be a deprived child.

B. The plan shall be furnished to the court within thirty (30) days after the adjudication of the child and shall be made available to counsel for the parties and any applicable tribe by the Department or the licensed child-placing agency having custody of the child or responsibility for the supervision of the case.

C. 1. The individualized service plan shall be based upon a comprehensive assessment and evaluation of the child and family and shall be developed with the participation of the parent, legal guardian, or legal custodian of the child, the attorney for the child, the guardian ad litem for the child, if any, the child's tribe, and the child, if appropriate. The health and safety of the child shall be the paramount concern in the development of the plan.

2. If any part of the plan is disputed or not approved by the court, an evidentiary hearing may be held and at its conclusion, the court shall determine the content of the individualized service plan in accord with the evidence presented and the best interests of the child.

3. When approved by the court, each individualized service plan shall be incorporated and made a part of the dispositional order of the court.

4. The plan shall be signed by:

- a. the parent or parents or legal guardian of the child,
- b. the attorney for the parent or parents or legal guardian of the child,
- c. the child's attorney,
- d. the guardian ad litem of the child, which may be a court-appointed special advocate,
- e. a representative of the child's tribe,
- f. the child, if possible, and
- g. the Department or other responsible agency.

D. 1. Every service plan prepared shall be individualized and specific to each child and the family of the child.

2. The individualized service plan shall be written in simple and clear English. If English is not the principal language of the parent, legal guardian, or custodian of the child, and such person is unable to read or comprehend the English language, to the extent possible the plan shall be written in the principal language of the person.

3. The individualized service plan may be modified based on changing circumstances consistent with the correction of the conditions that led to the adjudication of the child or other conditions inconsistent with the health, safety, or welfare of the child.

4. The individualized service plan shall be measurable, realistic and consistent with the requirements of other court orders.

E. The individualized service plan shall include, but not be limited to:

1. A history of the child and family, including identification of the problems or conditions leading to the deprived child adjudication and the changes the parent or parents must make in order for the child to safely remain in or return to the home;

2. Identification of time-limited reunification services to be provided to the parent, legal guardian, or legal custodian, stepparent, other adult person living in the home, or other family members;

3. Identification of the specific services to be provided to the child including, but not limited to, educational, vocational educational, medical, drug or alcohol abuse treatment, or counseling or other treatment services. The most recent available health and educational records of the child shall be provided to the court upon the court's request including:

- a. the names and addresses of the child's health and educational providers,
- b. the child's grade-level performance,

- c. the child's school record,
  - d. a record of the child's immunizations,
  - e. the child's known medical problems, including any known communicable diseases,
  - f. the child's medications, and
  - g. any other relevant health and education information;
4. A schedule of the frequency of services and the means by which delivery of the services will be assured or, as necessary, the proposed means by which support services or other assistance will be provided to enable the parent or the child to obtain the services;
5. The name of the social worker assigned to the case;
6. A projected date for the completion of the individualized service plan;
7. Performance criteria that will measure the progress of the child and family toward completion of the individualized service plan including, but not limited to, time frames for achieving objectives and addressing the identified problems;
8. The name and business address of the attorney representing the child;
9. If the child is placed outside the home, the individualized service plan shall further provide:
- a. the sequence and time frame for services to be provided to the parent, the child, and if the child is placed in foster care, the foster parent, to facilitate the child's return home or to another permanent placement,
  - b. a description of the child's placement and explanation about whether it is the least-restrictive placement available and in as close proximity as possible to the home of the parent or parents or legal guardian of the child when the case plan is reunification, and how the placement is consistent with the best interests and special needs of the child,
  - c. a description of any services or resources that were requested by the child or the parent or legal guardian of the child since the date of the child's placement, and whether those services or resources were provided and if not, the basis for the denial of the services or resources,
  - d. efforts to be made by the parent of the child and the Department to enable the child to return to his or her home,
  - e. a description of the transition planning for a successful adulthood for a child age fourteen (14) or older that includes how the following objectives will be met:
    - (1) education, vocational, or employment planning,
    - (2) health care planning and medical coverage,

- (3) transportation including, where appropriate, assisting the child in obtaining a driver license,
  - (4) money management,
  - (5) planning for housing,
  - (6) social and recreational skills, and
  - (7) establishing and maintaining connections with the child's family and community,
- f. for a child in placement due solely or in part to the child's behavioral health or medical health issues, diagnostic and assessment information, specific services relating to meeting the applicable behavioral health and medical care needs of the child, and desired treatment outcomes,
  - g. a plan and schedule for regular and frequent visitation for the child and the child's parent or parents or legal guardian and siblings, unless the court has determined that visitation, even if supervised, would be harmful to the child, and
  - h. a plan for ensuring the educational stability of the child while in out-of-home placement, including:
    - (1) assurances that the placement of the child considers the appropriateness of the current educational setting and the proximity to the school in which the child was enrolled at the time of placement, and
    - (2) where appropriate, an assurance that the Department has coordinated with appropriate local educational agencies to ensure that the child remains in the school in which the child was enrolled at the time of placement, or
    - (3) if remaining in the school in which the child was enrolled at the time of placement is not in the best interests of the child, assurances by the Department and the local educational agencies to provide immediate and appropriate enrollment in a new school with all of the educational records of the child provided to the school; and

10. The permanency plan for the child, the reason for selection of that plan and a description of the steps being taken by the Department to finalize the plan.

- a. When the permanency plan is adoption or legal guardianship, the Department shall describe, at a minimum, child-specific recruitment efforts such as relative searches conducted and the use of state, regional, and national adoption exchanges to facilitate the orderly and timely placement of the child, whether in or outside of the state.

- b. When the child is age fourteen (14) or older, the permanency plan and any revision or addition to the plan, shall include planning for the transition of the child to a successful adulthood.

F. Each individualized service plan shall specifically provide for the safety of the child, in accordance with state and federal law, and clearly define what actions or precautions will, or may, be necessary to provide for the safety and protection of the child.

G. The individualized service plan shall include the following statement:

TO THE PARENT: THIS IS A VERY IMPORTANT DOCUMENT. ITS PURPOSE IS TO HELP YOU PROVIDE YOUR CHILD WITH A SAFE HOME WITHIN THE REASONABLE PERIOD SPECIFIED IN THE PLAN. IF YOU ARE UNWILLING OR UNABLE TO PROVIDE YOUR CHILD WITH A SAFE HOME OR ATTEND COURT HEARINGS, YOUR PARENTAL AND CUSTODIAL DUTIES AND RIGHTS MAY BE RESTRICTED OR TERMINATED OR YOUR CHILD MAY NOT BE RETURNED TO YOU.

H. Whenever a child who is subject to the provisions of this section is committed for inpatient behavioral health or substance abuse treatment pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Minors Act, the individualized service plan shall be amended as necessary and appropriate, including, but not limited to, identification of the treatment and services to be provided to the child and the child's family upon discharge of the child from inpatient behavioral health or substance abuse treatment.

Added by Laws 1981, c. 289, § 2, eff. Oct. 1, 1981. Amended by Laws 1983, c. 113, § 1, eff. Nov. 1, 1983; Laws 1989, c. 213, § 1, emerg. eff. May 9, 1989; Laws 1989, c. 339, § 1, emerg. eff. June 2, 1989; Laws 1990, c. 272, § 1, eff. Sept. 1, 1990; Laws 1991, c. 296, § 18, eff. Sept. 1, 1991; Laws 1992, c. 298, § 26, eff. July 1, 1993; Laws 1995, c. 352, § 30, eff. July 1, 1995. Renumbered from § 1115.1 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1996, c. 353, § 20, eff. Nov. 1, 1996; Laws 1997, c. 389, § 2, eff. Nov. 1, 1997; Laws 1998, c. 5, § 4, emerg. eff. March 4, 1998; Laws 1998, c. 421, § 16, emerg. eff. June 11, 1998; Laws 2000, c. 374, § 16, eff. July 1, 2000; Laws 2002, c. 327, § 18, eff. July 1, 2002; Laws 2006, c. 258, § 2, emerg. eff. June 7, 2006; Laws 2009, c. 160, § 2, emerg. eff. May 11, 2009; Laws 2009, c. 233, § 35, emerg. eff. May 21, 2009. Renumbered from § 7003-5.3 of Title 10 by Laws 2009, c. 233, § 246, emerg. eff. May 21, 2009. Amended by Laws 2015, c. 173, § 3, eff. Nov. 1, 2015; Laws 2019, c. 297, § 2, eff. Nov. 1, 2019.

NOTE: Laws 1997, c. 386, § 5 repealed by Laws 1998, c. 5, § 29, emerg. eff. March 4, 1998.

§10A-1-4-705. Religious preference in placement - Placement of child - Restriction on placement in home of felon or sex offender.

A. In placing a child in the custody of an individual, a private agency, or institution, the court and the Department of Human Services shall, if possible, select a person, agency, or institution governed by persons of the same religious faith as that of the parents of the child, or in case of a difference in the religious faith of the parents, then of the religious faith of the child.

B. Except as otherwise provided by this section or by law, it shall be left to the discretion of the judge to place the custody of children where their total needs will best be served. If an individual meets the minimum required age for placement purposes, the age of an otherwise eligible individual shall not be a reason for denying the individual placement or custody of a child.

C. A prospective foster or adoptive parent shall not be an approved placement for a child if the prospective foster or adoptive parent or any other person residing in the home of the prospective foster or adoptive parent has been convicted of any of the following felony offenses:

1. Within the five-year period preceding the application date, a physical assault, battery, or a drug-related offense;

2. Child abuse or neglect;

3. Domestic abuse;

4. A crime against a child, including, but not limited to, child pornography; or

5. A crime involving violence, including, but not limited to, rape, sexual assault or homicide, but excluding those crimes specified in paragraph 1 of this subsection.

D. 1. Under no circumstances shall a child be placed with or in the custody of an individual subject to the Oklahoma Sex Offenders Registration Act or an individual who is married to or living with an individual subject to the Oklahoma Sex Offenders Registration Act.

2. In addition, prior to the court placing a child in the custody of an individual, the court shall inquire as to whether the individual has been previously convicted of any felony or relevant misdemeanor or has any felony or misdemeanor charges pending.

3. Prior to the custody order being entered, the individual seeking custody shall provide an Oklahoma criminal history record obtained pursuant to Section 150.9 of Title 74 of the Oklahoma Statutes to the court.

4. For purposes of this subsection the terms:

a. "relevant misdemeanor" may include assault and battery, alcohol- or drug-related offenses, domestic violence or other offenses involving the use of physical force or violence against the person or property of another, and

b. "individual" shall not include a parent or legal guardian of the child.

E. The provisions of this section shall not apply in any paternity or domestic relations case, unless otherwise ordered by the court.

Added by Laws 1968, c. 282, § 119, eff. Jan. 13, 1969. Amended by Laws 1995, c. 352, § 40, eff. July 1, 1995. Renumbered from § 1119 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1996, c. 200, § 11, eff. Nov. 1, 1996; Laws 1998, c. 414, § 19, emerg. eff. June 11, 1998; Laws 1999, c. 1, § 2, emerg. eff. Feb. 24, 1999; Laws 2000, c. 374, § 23, eff. July 1, 2000; Laws 2007, c. 196, § 4, eff. July 1, 2007; Laws 2008, c. 27, § 1, eff. Nov. 1, 2008; Laws 2009, c. 233, § 52, emerg. eff. May 21, 2009. Renumbered from § 7003-8.1 of Title 10 by Laws 2009, c. 233, § 247, emerg. eff. May 21, 2009.

NOTE: Laws 1998, c. 322, § 1 repealed by Laws 1999, c. 1, § 45, emerg. eff. Feb. 24, 1999.

§10A-1-4-706. Dispositional hearing.

A. 1. When a child has been adjudicated deprived pursuant to the provisions of Section 1-4-603 of this title, a dispositional hearing may be held on the same day as the adjudication hearing, but in any event the hearing shall be held and an order entered no later than forty (40) calendar days thereafter. The dispositional hearing shall not be delayed absent a showing of good cause and a finding by the court that the best interests of the child will be served by granting the delay. The court shall set forth the reasons why a delay is necessary and shall schedule the hearing at the earliest possible time following the delay.

2. During the hearing all evidence, including oral and written reports, relevant to the determination of the disposition best serving the health, safety, and welfare of the child may be received by the court and may be relied upon to the extent of its probative value even though not otherwise competent in the hearing on the petition. The parties shall be afforded a reasonable opportunity to examine the written reports prepared for the court's consideration prior to the dispositional hearing and to controvert them. The hearing may be informal and hearsay may be relied upon.

3. Any order concerning child support, visitation, or the legal custody of the child entered in any other administrative or district court proceeding shall be subject to modification by the juvenile court during the pendency of the deprived action.

4. The court shall determine and order the individualized service plan for the parties.

5. At the conclusion of the dispositional hearing, the court shall schedule the dates and times for periodic review and permanency hearings.

B. 1. If the child is removed from the custody of the child's parent, the court or the Department of Human Services, as applicable,

shall immediately consider concurrent permanency planning, and, when appropriate, develop a concurrent plan so that permanency may occur at the earliest opportunity. Consideration should be given so that if reunification fails or is delayed, the placement made is the best available placement to provide permanency for the child.

2. The court shall further:

- a. establish an initial permanency plan for the child, and
- b. determine if aggravated circumstances exist pursuant to Section 1-4-809 of this title and whether reunification services are appropriate for the child and the child's family.

3. When reunification with a parent or legal guardian is the permanency plan and concurrent planning is indicated, the court shall determine if efforts are being made to place the child in accord with the concurrent permanency plan, including whether appropriate in-state and out-of-state permanency placement options have been identified and pursued.

4. Every effort shall be made to place the child with a suitable relative of the child.

Added by Laws 1968, c. 282, § 116, eff. Jan. 13, 1969. Amended by Laws 1977, c. 79, § 3; Laws 1979, c. 248, § 2, eff. Oct. 1, 1979; Laws 1981, c. 238, § 3, eff. Oct. 1, 1981; Laws 1982, c. 312, § 23, operative Oct. 1, 1982; Laws 1986, c. 286, § 2, eff. Nov. 1, 1986; Laws 1989, c. 125, § 1, eff. Nov. 1, 1989; Laws 1989, c. 363, § 8, eff. Nov. 1, 1989; Laws 1990, c. 100, § 2, operative July 1, 1990; Laws 1990, c. 302, § 7, eff. Sept. 1, 1990; Laws 1991, c. 296, § 17, eff. Sept. 1, 1991; Laws 1992, c. 298, § 27, eff. July 1, 1993; Laws 1993, c. 74, § 2, eff. Sept. 1, 1993; Laws 1994, c. 95, § 1, eff. Sept. 1, 1994; Laws 1994, c. 290, § 41, eff. July 1, 1994; Laws 1995, c. 352, § 32, eff. July 1, 1995. Renumbered from § 1116 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1997, c. 389, § 5, eff. Nov. 1, 1997; Laws 1998, c. 421, § 18, emerg. eff. June 11, 1998; Laws 2000, c. 374, § 18, eff. July 1, 2000; Laws 2001, c. 141, § 3, emerg. eff. April 30, 2001; Laws 2006, c. 258, § 3, emerg. eff. June 7, 2006; Laws 2009, c. 160, § 3, emerg. eff. May 11, 2009; Laws 2009, c. 233, § 38, emerg. eff. May 21, 2009. Renumbered from § 7003-5.5 of Title 10 by Laws 2009, c. 233, § 248, emerg. eff. May 21, 2009.

NOTE: Laws 1990, c. 272, § 2 repealed by Laws 1991, c. 296, § 32, eff. Sept. 1, 1991.

§10A-1-4-707. Dispositional orders - Determinations.

A. The following kinds of dispositional orders may be made and shall be in accordance with the best interests of the child:

1. a. The court may place the child under protective supervision by the Department of Human Services in the home of the child with the parent or legal guardian

with whom the child was residing at the time the events or conditions arose that brought the child within the jurisdiction of the court, subject to such conditions as the court may prescribe that would reasonably prevent the child from continuing to be deprived.

- b. The court may place the child with the noncustodial parent, if available, upon completion of a home assessment, unless the court finds that the placement would not be in the best interests of the child. Any party with knowledge of the facts may present evidence to the court regarding whether the placement is in the best interests of the child. If the court places the child with the parent, it may do either of the following:
  - (1) order that the noncustodial parent assume sole custodial responsibilities for the child. The court may also order reasonable visitation and the payment of child support by the child's other parent. The court may then terminate its jurisdiction by entering a final permanency order. The final order entered determining custody, visitation and child support from the deprived action:
    - (a) shall remain in full force and effect and shall control over any custody or child support order entered in an administrative or district court action initiated prior to or during the pendency of the deprived action until such time as it is modified by a subsequent order of the district court, and
    - (b) may be docketed and filed in the prior existing or pending administrative or district court action; provided, however, if there is no administrative or district court action then in existence, the surviving order may be used as the sole basis for opening a new administrative or district court action in the same county where the deprived action was pending or in the county where the legal custodian of the child resides. When applicable, the clerk of the juvenile court shall transmit the surviving order to the clerk of the district court of the county where the order is to be filed along with the names and last-known addresses of the parents of the child. The clerk of the district court shall immediately upon receipt open a

file without a filing fee, assign a new case number and, when applicable, file the order and send by first-class mail a copy of the order with the new or prior existing case number back to the juvenile court and to the parents of the child at their last-known address. The order shall not be confidential and may be enforced or modified after being docketed and filed in the prior existing or new administrative or district court action, or

- (2) order that the noncustodial parent assume custody of the child under protective supervision by the Department. The court may order that:
  - (a) reunification services be provided to the parent or legal guardian from whom the child has been or is being removed,
  - (b) services be provided solely to the parent who is assuming physical custody of the child in order to allow that parent to later obtain legal custody without court supervision, or
  - (c) services be provided to both parents, in which case the court shall determine, at a subsequent review hearing, which parent, if either, shall have custody of the child.
- c. If the court orders the child into the home of a father whose paternity has not been established, the alleged father must cooperate in establishing paternity as a condition for the child's continued placement in the alleged father's home.
- d. If the court issues an order for protective supervision of the child in the home of a parent, the court may order any of the following:
  - (1) that a party or other person living in the home vacate the child's home indefinitely or for a specified period of time within forty-eight (48) hours of issuing the order, and
  - (2) that a party, a parent, or a legal guardian of the child prevent a particular person from having contact with the child.
- e. At any time during the deprived child proceedings, the court may issue an order specifying the conduct to be followed by any person living in the home that the court determines would be in the best interests of the child. The conduct specified shall be such as would reasonably prevent the child from continuing to be deprived.

- f. The order placing the child under supervision by the Department in the child's own home shall remain in effect for a period of one (1) year. In appropriate circumstances, the court may extend or reduce the period of supervision by the Department.
2. a. If the court is unable to place the child in the home of a parent, the court shall give a preference for placing temporary custody of the child with a relative as specified in Section 1-4-204 of this title, subject to the best interests of the child and the conditions and restrictions specified in Section 1-4-705 of this title. In determining whether to place temporary custody of the child with a relative, the court may consider the following factors:
- (1) the physical, psychological, educational, medical, and emotional needs of the child,
  - (2) the wishes of the parent, the relative, and child, if appropriate,
  - (3) whether placement of the siblings and half-siblings can be made in the same home, if that placement is found to be in the best interest of each child,
  - (4) the background information of the relative and any other person living in the home, including whether any such person has a prior history of violence, acts of child abuse or neglect, or any other background that would render the home unsuitable,
  - (5) the nature and duration of the relationship between the child and the relative, and the relative's desire to care for and to provide long-term permanency for the child if reunification is unsuccessful, and
  - (6) the ability of the relative to do the following:
    - (a) provide a safe, secure, and stable environment for the child,
    - (b) exercise proper and effective care and control of the child,
    - (c) provide a home and the necessities of life for the child,
    - (d) protect the child from his or her parents,
    - (e) facilitate court-ordered reunification efforts with the parent,
    - (f) facilitate visitation with the child's siblings and other relatives, and
    - (g) arrange for appropriate and safe child care, if necessary.

- b. If more than one appropriate relative requests preferential consideration pursuant to this section, each relative shall be evaluated under the factors enumerated in this paragraph. However, whenever a new temporary custody order regarding the child must be entered, consideration shall again be given as described in this section to relatives who have been found to be suitable and who will fulfill the permanency needs of the child.
        - c. If the court does not place temporary custody of the child with a relative pursuant to this subsection, the court shall state for the record the reasons placement with that relative was denied.
  3.
    - a. The court may place the child in the custody of a private institution or agency, including any institution established and operated by the county, authorized to care for children or to place them in family homes.
    - b. In placing a child in a private institution or agency, the court shall select one that is licensed by the Department or any other state department supervising or licensing private institutions and agencies; or, if such institution or agency is in another state, by the analogous department of that state.
    - c. Whenever the court shall place a child in any institution or agency, it shall transmit with the order of commitment a summary of its information concerning the child, and such institution or agency shall give to the court such information concerning the child as the court may at any time require.
  4. The court may place the child in the custody of the Department.
    - a. In selecting a placement for a child in its custody, the Department shall make an individualized determination based upon the child's best interests and permanency plan regarding the following placement options:
      - (1) a home or facility that meets the preferences specified by the state and federal Indian Child Welfare Acts when applicable,
      - (2) the home of a noncustodial parent,
      - (3) the home of a relative approved by the Department,
      - (4) the home of a nonrelative kinship family approved by the Department,
      - (5) an approved foster home in which the child has been previously placed,

- (6) a suitable nonkinship foster family or family-style living program approved by the Department,
  - (7) a suitable licensed group home for children, or
  - (8) an independent living program.
- b.
- (1) Unless the child is placed with relatives or in accord with the federal and state Indian Child Welfare Acts, the child shall be placed, when possible, in the county of residence of the child's parent or legal guardian in order to facilitate reunification of the family.
  - (2) If an appropriate placement is not available in the county of residence of the parent or legal guardian, the child shall be placed in an appropriate home in the nearest proximity to the resident county of the parent or legal guardian.
  - (3) Nothing in this section shall be construed to mean that the child's placements shall correspond in frequency to changes of residence by the parent or legal guardian. In determining whether the child should be moved, the Department shall take into consideration the potential harmful effects of disrupting the placement of the child and the reason of the parent or legal guardian for the move.
- c. If the child is part of a sibling group, it shall be presumed that placement of the entire sibling group in the same placement is in the best interests of the child and siblings unless the presumption is rebutted by a preponderance of the evidence to the contrary.

5. The court may order the Department to coordinate the provision of services provided by other agencies in order that the court-approved permanency plan may be achieved.

6. a. If the court determines that reunification services are appropriate for the child and a parent, the court shall allow reasonable visitation with the parent or legal guardian from whose custody the child was removed, unless visitation is not in the best interest of the child, taking into consideration:
- (1) protection of the physical safety of the child,
  - (2) protection of the life of the child,
  - (3) protection of the child from being traumatized by contact with the parent, and
  - (4) the child's expressed wishes.
- b. A court may not deny visitation based solely on the failure of a parent to prove that the parent has not used legal or illegal substances or complied with an

aspect of the court-ordered individualized service plan.

7. The court may order a permanent guardianship to be established as more fully set forth in Section 1-4-709 of this title.

8. Except as otherwise provided by law, the court may dismiss the petition and terminate its jurisdiction at any time for good cause shown when doing so is in the best interests of the child.

B. Any order entered pursuant to this section shall include:

1. A statement informing the child's parent that the consequences of noncompliance with the requirement of the court may include termination of the parent's rights with respect to the child; or

2. A statement informing the child's legal guardian or custodian that the consequences of noncompliance with the requirement of the court may include removal of the child from the custody of the legal guardian or custodian.

C. 1. In any dispositional order removing a child from the home of the child, the court shall make a determination as to whether, in accordance with the best interests and the health, safety, or welfare of the child, reasonable efforts have been made to provide for the safe return of the child to the child's own home.

2. If reasonable efforts are required for the safe return of the child to the child's home, the court shall allow the parent of the child not less than three (3) months to correct the conditions which led to the adjudication of the child as a deprived child; however, the time period for reunification services may not exceed seventeen (17) months from the date that the child was initially removed from the child's home, absent a finding of compelling reasons to the contrary.

3. If the court finds that continuation of reasonable efforts to return the child home are inconsistent with the permanency plan for a child, the court shall determine whether reasonable efforts have been made to complete the steps necessary to finalize the permanent placement of the child.

4. Reasonable efforts to reunite the child with the child's family shall not be required pursuant to the provisions of Section 1-4-809 of this title.

D. In any dispositional order involving a child sixteen (16) years of age or older, the court shall make a determination, where appropriate, of the services needed to assist the child to make the transition from out-of-home care to independent living.

E. In accordance with the safety or well-being of any child, the court shall determine in any dispositional order whether reasonable efforts have been made to:

1. Place siblings, who have been removed, together in the same foster care, guardianship, or adoptive placement; and

2. Provide for frequent visitation or other ongoing interaction in the case of siblings who have been removed and who are not placed together.

Added by Laws 2009, c. 233, § 121, emerg. eff. May 21, 2009. Amended by Laws 2019, c. 297, § 3, eff. Nov. 1, 2019.

§10A-1-4-708. Deprivation based on repeated absence from school.

A. In cases where the child has been adjudicated to be deprived due to repeated absence from school, the court may order counseling and treatment for the child and the parents.

B. Prior to final disposition, the court shall require verification by the appropriate school district that the child found to be truant has been evaluated for literacy, learning disabilities, developmental disabilities, hearing and visual impairment, and other impediments which could constitute an educational handicap. The results of such assessments or evaluations shall be made available to the court for use by the court in determining the disposition of the case.

C. No child who has been adjudicated deprived upon the basis of noncompliance with the mandatory school attendance law alone may be placed in a public or private institutional facility or be removed from the custody of the lawful parent, legal guardian, or custodian of the child.

D. A deprived adjudication based solely upon repeated absence from school shall not constitute a ground for termination of parental rights.

Added by Laws 2009, c. 233, § 122, emerg. eff. May 21, 2009.

§10A-1-4-709. Permanent guardianship.

A. The court may establish a permanent guardianship between a child and a relative or other adult if the guardianship is in the child's best interests and all of the following conditions are substantially satisfied:

1. The child has been adjudicated to be a deprived child;
2. The parent has:
  - a. consented to the guardianship,
  - b. had his or her parental rights terminated,
  - c. failed to substantially correct the conditions that led to the adjudication of the child,
  - d. been adjudicated as incompetent or incapacitated by a court,
  - e. abandoned the child,
  - f. failed to be identified or has not been located despite reasonably diligent efforts to ascertain the whereabouts of the parent, or
  - g. died;

3. The child consents to the guardianship if the court finds the child to be of sufficient intelligence, understanding, and experience to provide consent;

4. Termination of the parent's rights is either not legally possible or not in the best interests of the child or adoption is not the permanency plan for the child;

5. The child and the prospective guardian do not require protective supervision or preventive services to ensure the stability of the guardianship;

6. The prospective guardian is committed to providing for the child until the child reaches the age of majority and to preparing the child for adulthood and independence;

7. The prospective guardian agrees not to return the child to the care of the person from whom the child was removed nor to allow visitation without the approval of the court; and

8. The child has been residing or placed with the proposed guardian for at least the six (6) preceding months or the permanent guardian is a relative with whom the child has a relationship.

B. In proceedings for permanent guardianship, the court shall give primary consideration to the physical and behavioral health needs of the child.

C. A permanent guardianship pursuant to subsection A of this section shall not be permitted if:

1. The prospective guardian would be denied placement as a prospective foster or adoptive parent pursuant to subsection C of Section 1-4-705 of this title;

2. The prospective guardian is subject to the Oklahoma Sex Offenders Registration Act or living with an individual subject to the Oklahoma Sex Offenders Registration Act; or

3. The prospective guardian is the parent of the child and has had his or her parental rights terminated.

D. Unless otherwise set forth in the final order of permanent guardianship, a permanent guardian is vested with all of the rights and responsibilities as set forth in Title 30 of the Oklahoma Statutes relating to the powers and duties of a guardian of a minor, other than those rights and responsibilities retained by the child's parent, if any, that are set forth in the decree of permanent guardianship.

Added by Laws 2009, c. 233, § 123, emerg. eff. May 21, 2009. Amended by Laws 2016, c. 242, § 1, emerg. eff. May 5, 2016; Laws 2019, c. 94, § 1, eff. Nov. 1, 2019.

§10A-1-4-710. Motion for permanent guardianship - Notice - Home study - Findings - Visitation - Guardianship review.

A. The district attorney or child's attorney shall file a motion for permanent guardianship with the juvenile court in the deprived

case. The motion shall be verified by the prospective guardian and shall include the following:

1. The name, gender, and date of birth of the child;
2. The facts and circumstances supporting the grounds for permanent guardianship;
3. The name and address of the prospective guardian and a statement that the prospective guardian agrees to accept the duties and responsibilities of guardianship;
4. The relationship of the child to the prospective guardian;
5. That the prospective guardian understands that the guardianship is intended to be permanent in nature and that the person will be responsible as the guardian until the child reaches the age of majority;
6. Whether the child has resided with the prospective guardian prior to the motion being filed, and, if so, the length of time and the circumstances surrounding the child's stay; and
7. Whether there exists a loving, emotional tie between the child and the prospective guardian.

B. Notice of the hearing as well as a copy of the motion shall be served upon the parties, the Department of Human Services, and the guardian ad litem of the child, if any. Notice shall also be sent to the tribe of an Indian child as defined by the federal Indian Child Welfare Act. Service shall not be required on the parent whose rights have been previously terminated.

C. 1. When the child is in the custody of the Department, the Department shall cause a home study of the proposed guardian's home to be completed and provide a report to the court regarding the suitability of the proposed guardian and whether guardianship is in the best interest of the child. The Department shall promulgate rules in furtherance of the duties imposed by this subsection. However, the prospective guardian shall be responsible to obtain the home study if the child is not in the custody of the Department.

2. The findings of the home study shall be set forth in a written report provided to the court, the district attorney, the child, and the guardian ad litem, if any, before the hearing. The court may require additional information as necessary to make an appropriate decision regarding the permanent guardianship.

D. 1. Before issuing an order of permanent guardianship, the court shall find by clear and convincing evidence all of the following:

- a. the factual basis for establishing parental unfitness or unavailability to provide adequate care for the child,
- b. termination of the rights of the parent is either not legally possible or not in the best interests of the child, or adoption is not the permanency plan for the child,

- c. the child has resided with the permanent guardian for at least six (6) months, or the permanent guardian is a relative with whom the child has a relationship,
- d. a permanent guardianship is in the best interests of the child, and
- e. the proposed permanent guardian:
  - (1) is emotionally, mentally, physically, and financially suitable to become the permanent guardian,
  - (2) has expressly committed to remain the permanent guardian for the duration of the child's minority, and
  - (3) has expressly demonstrated a clear understanding of the financial implications of becoming a permanent guardian.

2. A decree of permanent guardianship divests the parents of legal custody or guardianship of the child, but is not a termination of parental rights.

E. Upon finding that grounds exist for a permanent guardianship, the court may also order visitation with the parent, siblings, or other relatives of the child if such contact would be in the child's best interests as well as any other provision necessary to provide for the child's continuing safety and well-being. The court shall order the parents to contribute to the support of the child pursuant to child-support guidelines as provided for in Sections 118 and 119 of Title 43 of the Oklahoma Statutes.

F. 1. An order appointing a permanent guardian shall:

- a. require that the placement be reviewed within one (1) year after transfer, and may require the permanent guardian to submit any records or reports the court deems necessary for purposes of such review,
- b. divest the Department of legal custody and supervision of the child and the Department shall have no further responsibility for the custody or supervision of the child,
- c. not require periodic reviews by the court thereafter if the parties agree with the assent of the court that the reviews are not necessary to serve the best interests of the child, unless periodic reviews are otherwise required by the court.

2. Unless periodic reviews are required, the court may close the case, provided the order of permanent guardianship shall remain in full force and effect subject to the provisions of this Code and:

- a. shall remain in full force and effect and shall control over any custody or child support order entered in an administrative or district court action initiated prior to or during the pendency of the deprived action until

it is modified by a subsequent order of the district court, and

- b. may be docketed and filed in the prior existing or pending administrative or district court action; provided, however, if there is no administrative or district court action then in existence, the surviving order may be used as the sole basis for opening a new administrative or district court action in the same county where the deprived action was pending or in the county where the permanent guardian of the child resides. When applicable, the clerk of the juvenile court shall transmit the surviving order to the clerk of the district court of the county where the order is to be filed along with the names and last-known addresses of the parents of the child. The clerk of the district court shall immediately upon receipt open a file without a filing fee, assign a new case number and, when applicable, file the order and send by first-class mail a copy of the order with the new or prior existing case number back to the juvenile court and to the parents of the child at their last-known address. The order shall not be confidential and may be enforced or modified after being docketed and filed in the prior existing or new administrative or district court action.

Added by Laws 2009, c. 233, § 124, emerg. eff. May 21, 2009. Amended by Laws 2016, c. 61, § 1, eff. Nov. 1, 2016.

§10A-1-4-711. Motion for modification or termination of a permanent guardianship.

A. 1. A motion for modification or termination of a permanent guardianship may be filed by the permanent guardian, the child, or the district attorney. A modification or termination may also be ordered by the court on its own initiative. An order for modification or termination of the permanent guardianship may be entered after notice and opportunity for hearing and shall be based on a finding that there has been a substantial change of material circumstances including, but not limited to, the following:

- a. the parent of the child is presently able and willing to properly care for the child,
- b. the permanent guardian of the child is unable to properly care for the child,
- c. the child has been abused or neglected while in the care of the permanent guardian, or
- d. the permanent guardian of the child is deceased.

2. The court shall appoint a guardian ad litem for the child in any proceeding for modification or termination of a permanent guardianship.

B. 1. The court may modify or terminate the order granting permanent guardianship upon a finding by clear and convincing evidence that there has been a substantial change in material circumstances and that a modification or termination of the permanent guardianship is in the child's best interest.

2. When the modification or termination of the permanent guardianship results in the removal of the child from the home of the guardian, the court shall determine if the continuation of the child in the home of the guardian is contrary to the welfare of the child, and, if so, whether:

- a. reasonable efforts have been made to prevent the removal of the child from the child's home, or
- b. an absence of efforts to prevent the removal of the child from the child's home is reasonable because the removal is due to an emergency and is for the purpose of providing for the welfare of the child.

3. Where the termination of a permanent guardianship is granted for reason of the guardian's abuse, neglect, death, or inability to care for the child, the court shall order the child returned to the legal custody of the Department of Human Services pending further hearing. The Department shall develop a new permanency plan on behalf of the child, which shall be presented to the court within thirty (30) days of the date the permanent guardianship is terminated.

4. Unless the parental rights of the child's parent or parents have been terminated, they shall be notified that the legal guardianship has been modified or terminated and shall be entitled to participate in the new permanency planning hearing where the court shall order a new permanency plan appropriate to meet the needs of the child.

5. The court may order that reunification services again be provided to the parent or parents if it is in the best interests of the child and may consider the parent or parents for custody of the child, with Department supervision, if the parent can prove by a preponderance of the evidence that conditions which previously existed at the time of the granting of the permanent guardianship order have been substantially corrected and that reunification is the best alternative for the child.

Added by Laws 2009, c. 233, § 125, emerg. eff. May 21, 2009.

§10A-1-4-712. Authority to establish family drug court - Procedures.

A. Each district court is hereby authorized to establish a family drug court for the purpose of treating children adjudicated as deprived and their families in cases where the parent, parents or

legal guardian has a substance abuse disorder. The Department of Mental Health and Substance Abuse Services shall assist in the establishment of family drug courts and, if funds are available, may contract for family drug court treatment services.

B. At the adjudicatory or dispositional hearing in a deprived case, the court may determine whether there are any statutory preclusions, other prohibitions, or program limitations that exist and are applicable to considering the family for participation in the drug court program.

C. A family drug court assessment shall be ordered by the court, upon the motion of the district attorney, Department of Human Services, the child's attorney, parent, legal guardian or upon the court's own motion, once the requirements of subsection B of this section have been met.

D. The court shall set a date for a hearing to determine final eligibility for admittance into the program which shall not exceed thirty (30) days after the dispositional hearing.

E. Upon denial for consideration in the family drug court program at the initial hearing, the case shall proceed as authorized by the Children's Code.

Added by Laws 2010, c. 278, § 7, eff. Nov. 1, 2010.

§10A-1-4-713. Family drug court assessment.

A. When directed by the court, the family drug court treatment staff shall make a family drug court assessment of the deprived child or children and the family under consideration to determine whether:

1. Reunification is the permanency plan for the child or children and that reunification with the parent, parents or legal guardian is in the best interest of the child or children; and

2. The alcohol or substance abuse of the parent, parents or legal guardian is a substantial contributing condition to the adjudication of a child or children as deprived.

B. 1. The family drug court assessment shall be conducted through a standardized screening test and personal interview. A more comprehensive evaluation may take place at the time the family enters the treatment portion of the program and may take place at any time after placement in the program.

2. The family drug court assessment shall determine the elements of the family drug court treatment plan which the parent, parents or legal guardian shall be required to comply with if admitted to the program. Any subsequent assessments or evaluations by the treatment provider may be used to determine modifications needed to the original family drug court treatment plan.

3. The family drug court assessment shall include, but not be limited to, the following information:

a. the age and physical condition of the child or children,

- b. family employment,
- c. educational background and literacy level,
- d. community and family relations,
- e. prior and current drug and alcohol use,
- f. behavioral health and medical treatment history,
- g. demonstrable motivation of the family, and
- h. other mitigating or aggravating factors.

C. When a family is determined to be appropriate for admittance to the program, regardless of whether the child or children are in the custody of the Department of Human Services, the treatment staff shall make a recommendation for the treatment program or programs that are available in the jurisdiction and which would benefit the family and child or children.

D. 1. Any statement made by the parent or legal guardian to any supervising staff during the course of any drug court assessment and subsequent to the admission of the parent or legal guardian to the family drug court program, as well as any report of findings and recommendations, shall not be admissible in any other case pending against the parent or legal guardian, nor shall such be grounds for the revocation of a parent or legal guardian from the program.

2. The restrictions provided in this section shall not preclude the admissibility of statements or evidence obtained by the state from independent sources.

Added by Laws 2010, c. 278, § 8, eff. Nov. 1, 2010.

§10A-1-4-714. Family drug court program eligibility.

A. The family drug court judge shall conduct a hearing to determine final eligibility of the family for the family drug court program by considering:

1. Whether the child or children and family are appropriate for placement in drug court, as provided in Section 8 of this act;

2. The findings and recommendations of the family drug court assessment;

3. Whether there is an appropriate treatment program available to the family and whether there is a recommended family drug court treatment plan; and

4. Any information relevant to determining eligibility. A family shall not be denied admittance to any family drug court program based upon the inability of the family to pay court costs or other costs or fees.

B. The judge shall require the family to demonstrate support for participation in the program. In order for the family to be admitted to the program, every person responsible for the health or welfare of the child or children and any adult who establishes a permanent residence in the home where the child or children reside after the child or children have been admitted to the program shall submit to

the personal jurisdiction of the court upon being properly served pursuant to Section 1-4-304 of Title 10A of the Oklahoma Statutes or by personally appearing in court. Failure of an adult responsible for the health or welfare of the child or children, or an adult who resides in the home with the child or children, to submit to the personal jurisdiction of the court shall result in either the family's dismissal from the drug court program, contempt of court proceedings for the adult, removal of the child or children from the home, or any combination thereof.

C. When the court accepts the family drug court treatment plan, the child or children and family shall be ordered immediately into the program and the person responsible for the health or welfare of the child or children and any adult who resides in the home of the child or children shall have voluntarily signed the necessary court documents before the child or children and family may be admitted to treatment. The court documents shall include:

1. A written family drug court treatment plan, which is subject to modification at any time during the program, as set forth in Section 8 of this act;

2. A statement requiring the child or children and family to enter the treatment program as directed by the court and to participate until completion, withdrawal, or removal by the court; and

3. A statement signed voluntarily by the person or persons responsible for the health or welfare of the child or children and any adult who resides in the home with the child or children that such person or persons shall comply with the orders of the court and any conditions of the treatment program and supervising staff for as long as the family participates in the family drug court program.

D. If admission into the family drug court program is denied, the case shall be returned to the traditional juvenile docket and shall proceed as provided for any other juvenile case.

E. At the time a child or children and family is admitted to the family drug court program, any bond, bail or undertaking on behalf of the child or children or family shall be exonerated.

F. 1. A family shall actively participate in treatment for a period of not less than six (6) months while participating in the family drug court program.

2. All participating treatment providers shall be certified by the Department of Mental Health and Substance Abuse Services. Treatment programs shall be designed to be completed within twelve (12) months and shall have relapse prevention and evaluation components.

Added by Laws 2010, c. 278, § 9, eff. Nov. 1, 2010.

§10A-1-4-715. Family drug court judge - Powers.

A. The family drug court judge shall make all judicial decisions concerning any case assigned to the family drug court docket or program. The judge shall require progress reports and a periodic review of each family during their period of participation in the family drug court program or for purposes of collecting costs and fees after completion of the treatment portion of the program. Reports from the treatment providers and the supervising staff shall be presented to the drug court judge as specified by the treatment plan or as ordered by the court.

B. The judge may establish a regular schedule for progress hearings for any family in the family drug court program. The district attorney, the Department of Human Services, the child or children and family, including any adult who resides in the home with the child or children, the attorney for the child or children and family, including any adult who resides in the home with the child or children, and the treatment provider shall be required to attend regular progress hearings, and shall be required to be present upon the motion of any party to a family drug court case.

C. The treatment provider, the supervising staff, the district attorney, the Department of Human Services, and the attorney for the child or children and family shall be allowed access to all information in the family drug court case file of the child or children and all information presented to the judge during any family drug court hearing.

D. 1. The family drug court judge shall recognize relapses and restarts in the program which are considered to be part of the rehabilitation and recovery process.

2. The family drug court judge shall order progressively increasing sanctions or provide incentives, rather than removing the family from the program when relapse occurs, except when the conduct of the child or children or family requires removal from the program.

3. Any removal from the family drug court program shall require notice to the child or children and family and other participating parties in the case and a hearing.

4. At any family drug court hearing, if the child or children or an adult responsible for the health and welfare of the child or children is found to have violated the conditions of the treatment plan and disciplinary sanctions have been insufficient to gain compliance, the child or children and family shall be removed from the program, and the child or children shall be returned to the regular deprived court docket and set for redispotion or permanency hearing.

E. Upon application of any participating party to a family drug court case, the judge may modify a family drug court treatment plan at any hearing when it is determined that the treatment is not beneficial to the child or children. The primary objective of the judge in monitoring the progress of the child or children, the family

and the family drug court treatment plan shall be to keep the child or children and family in treatment for a sufficient time to change behaviors and attitudes. Modification of the treatment plan requires a consultation with the treatment provider, supervising staff, district attorney, the Department of Human Services, the attorney for the child or children and the attorney for the family in open court.

F. The family drug court judge shall be authorized to modify the family drug court treatment plan of any person responsible for the health and welfare of the child or children and any adult residing with the child or children for noncompliance with any condition established by the court. The family drug court judge is also authorized to sanction the person responsible for the health and welfare of the child or children or any adult residing with the child or children for noncompliance of such person with any condition established in the court.

Added by Laws 2010, c. 278, § 10, eff. Nov. 1, 2010.

§10A-1-4-716. Family drug court costs - Family Drug Court Revolving Fund.

A. 1. The family drug court judge may order the family, or a member of the family, to pay court costs, treatment costs, drug-testing costs, and supervision fees. The family drug court judge may order an adult member or members of the family responsible for the health or welfare of the child or children to pay a program user fee, not to exceed Twenty Dollars (\$20.00) per month.

2. The family drug court judge may establish a schedule for the payment of costs and fees.

B. There shall be created with the county treasurer of each county within this state a cash fund to be designated as the "Family Drug Court Revolving Fund".

1. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received and any other monies designated by law for deposit into the fund.

2. All monies accruing to the credit of the fund are hereby appropriated and shall be expended by the family drug court coordinator for the benefit and administration of the family drug court program.

3. Claims against the fund shall include only expenses incurred for the administration of the family drug court program and payment may be made after the claim is approved by the family drug court team.

4. The necessary forms and procedures to account for the monies shall be developed and implemented by the Office of the State Auditor and Inspector.

C. 1. The cost for treatment, drug testing, and supervision fees shall be set by the family drug court team and shall reflect actual expenses or rates established by the Department of Mental

Health and Substance Abuse Services and made part of the court's order for payment.

2. The costs for drug testing and supervision fees shall be paid to the family drug court coordinator for deposit into the county Family Drug Court Revolving Fund.

3. The costs for treatment shall be paid to the respective family drug court treatment provider or providers.

4. The court clerk shall collect all other costs and fees ordered.

D. 1. No court order for costs and fees shall be limited by any term of supervision, treatment, or extension thereof.

2. Court orders for costs and fees shall remain an obligation of the adult member or members of the family responsible for the health or welfare of the child or children with court monitoring until fully paid.

Added by Laws 2010, c. 278, § 11, eff. Nov. 1, 2010.

§10A-1-4-801. Stay pending review of release order.

A. At any hearing including, but not limited to, hearings conducted pursuant to Section 1-8-103 of Title 10A of the Oklahoma Statutes, where it is determined that a child in state custody will be released from state custody, the district attorney or the attorney for the child may give verbal notice to the court of an objection to the order of the court and an intention to seek review of that order based on the grounds that the order of the court releasing the child from state custody creates a serious risk of danger to the health or safety of the child.

B. Upon giving such notice, the court issuing the custody order in question shall stay the custody order pending the filing of an application and completion of review as provided in this section. The district attorney or attorney for the child shall file with the presiding judge of the administrative judicial district a written application for review within three (3) judicial days from the custody order. If a written application for review is not filed within such time period, or if a written notice to the trial court withdrawing the objection is filed within that time period, the objection will be deemed abandoned and the stay shall expire.

C. Each application for review shall be assigned by the presiding judge of the administrative judicial district to a judge within that administrative judicial district with juvenile docket responsibilities. The review shall be completed within five (5) judicial days of the filing of the written application for review. The review conducted by the reviewing judge shall address the question of whether releasing the child from state custody creates a serious risk of danger to the health or safety of the child. The reviewing court shall review the record of the hearing and any other evidence deemed relevant by the reviewing court. At the conclusion

of the review, the reviewing court shall issue its findings of fact and conclusions of law and report them to the court issuing the custody order under review.

D. A finding by the reviewing court that the order releasing the child from state custody creates a serious risk of danger to the health or safety of the child shall be controlling and the court issuing the order under review shall proceed to enter a different custody order. If the reviewing court finds that the order under review does not create a serious risk of danger to the health or safety of the child and that the order is otherwise appropriate then the court issuing the order under review shall release the stay and the order shall be subject to appeal as provided in Section 1-5-101 of Title 10A of the Oklahoma Statutes. The failure of any court to issue the stay mandated by this section shall be subject to immediate mandamus to an appropriate court.

Added by Laws 2009, c. 233, § 126, emerg. eff. May 21, 2009.

§10A-1-4-802. Hearing to determine release of child from state custody.

A. At any hearing pursuant to the provisions of the Oklahoma Children's Code for the purpose of determining the placement of a child or that a child in state custody is to be released from state custody, the court shall provide an opportunity to a representative of the Department of Human Services, the present foster parent or representative of the group home where a child is placed, the guardian ad litem and the child, if of sufficient age as determined by the court, to present sworn testimony regarding the placement of the child or release of the child from state custody. In all cases in which the Office of Juvenile System Oversight has conducted an investigation regarding placement of a child or release of a child from state custody and believes there is a serious risk of danger to the health or safety of that child, the Oklahoma Commission on Children and Youth shall provide to the court and the parties a written report of their investigation and recommendation for placement of the child. Such report shall be provided to the court and the parties no less than five (5) days prior to the hearing. The court, upon motion of any party, shall order attendance of any person preparing such report when it appears there is a substantial likelihood that material evidence not contained in the report may be produced by the testimony of any person having prepared the report. The court shall consider the report when making his or her decision regarding placement of a child or release of a child from state custody.

B. The court, the district attorney or the attorneys for the parties may cross examine the representative of the Department, the child, if of sufficient age as determined by the court, the present

foster parents or group home representative, and the guardian ad litem.

C. The court shall issue written findings of fact and conclusions of law. All hearings concerning such cases shall be on the record. The failure of any court to provide an opportunity to a representative of the Department or to the present foster parent or group home representative, the guardian ad litem and to the child, if of sufficient age as determined by the court, to present the sworn testimony pursuant to this section shall be subject to immediate mandamus to an appropriate court.

Added by Laws 1996, c. 200, § 8, eff. Nov. 1, 1996. Amended by Laws 1998, c. 421, § 24, emerg. eff. June 11, 1998; Laws 2006, c. 205, § 6, eff. Nov. 1, 2006; Laws 2009, c. 233, § 48, emerg. eff. May 21, 2009. Renumbered from § 7003-6.2A of Title 10 by Laws 2009, c. 233, § 249, emerg. eff. May 21, 2009. Amended by Laws 2014, c. 105, § 2, eff. Nov. 1, 2014.

§10A-1-4-803. Placement of child in the custody of the Department of Human Services.

If the court determines it would be in the best interests of a child, the court may place the child in the legal custody of the Department of Human Services. Whenever a child is in the custody of the Department, the court shall not have the authority to order a specific placement of the child but shall have the authority to approve or disapprove a specific placement if it does not conform to statutory requirements and the best interests of the child.

Added by Laws 2009, c. 233, § 127, emerg. eff. May 21, 2009.

§10A-1-4-804. Notification of movement of child in the custody of Department of Human Services.

A. 1. The Department of Human Services shall notify the court, the postadjudication review board, the district attorney, the child's attorney, and the guardian ad litem of the child, if any, whenever a child in the custody of the Department is moved from one location to another.

2. The Department shall notify the foster family prior to movement of the child pursuant to the provisions of Section 1-4-805 of this title.

3. The Department shall inform the guardian ad litem, if any, and the child's attorney of the specific location of the child.

B. The notification required by this section shall be made by the Department within a reasonable time after the Department is made aware of the need for movement, but in no event less than five (5) judicial days prior to movement unless an emergency exists. As used in this section, "emergency" means movement of a child that is:

1. Pursuant to an order of the court including, but not limited to, an order authorizing placement of a child with a parent or sibling;

2. Requested by the child-placing agency or foster parent of the child, and the request is for immediate removal of the child without delay or notice as provided by this section;

3. For emergency medical or mental health treatment;

4. For substantial noncompliance by a foster parent or child-placing agency with applicable placement standards and agreements such that the child is in imminent danger; or

5. Due to a pending investigation of an allegation of abuse or neglect of a child by a foster parent or child-placing agency or other person residing in the foster family home.

C. The court, on its own motion, may hold, or any party receiving notice pursuant to this section, shall be granted, an informal hearing concerning the reasons and necessity for moving the child, if requested in writing, within five (5) days following the receipt of notice.

Added by Laws 1996, c. 353, § 22, eff. Nov. 1, 1996. Amended by Laws 1997, c. 389, § 4, eff. Nov. 1, 1997; Laws 2000, c. 374, § 17, eff. July 1, 2000; Laws 2009, c. 233, § 37, emerg. eff. May 21, 2009. Renumbered from § 7003-5.4a of Title 10 by Laws 2009, c. 233, § 250, emerg. eff. May 21, 2009. Amended by Laws 2010, c. 278, § 12, eff. Nov. 1, 2010.

§10A-1-4-805. Change in foster or group home placement.

A. If a child placed in the custody of a child-placing agency or in the custody of the Department of Human Services by the court has resided with a foster parent or group home for three (3) or more months:

1. Except in an emergency, the Department or child-placing agency shall:

a. give a minimum of five (5) judicial days' advance notice to the foster parent or group home and to the court before removing a child from such foster placement, and

b. at the time of such notification, provide the foster parent or group home with a written statement of the reasons for removing a child;

2. An oral or written opinion may be provided to the court by a party, foster parent or representative of a group home where a child is placed in support of or in opposition to any change in the child's placement that is planned or under consideration by the Department or child-placing agency;

3. The court shall resolve any concerns raised by a party, foster parent or group home representative regarding a planned change in the child's placement during any hearing in which the concerns are

brought to the attention of the court or the court may schedule an informal placement review hearing that shall be heard within fifteen (15) judicial days from the date the concerns are brought to the attention of the court. The court may, in its discretion, stay a proposed change in placement until the informal placement review hearing is held; and

4. The foster parent or group home representative shall, at any hearing, be entitled to submit to the court written reports or present testimony concerning the strengths, needs, behavior, important experiences, and relationships of the child, in addition to such other information the court may request.

B. When a child is placed in the custody of the Department or any child-placing agency, the Department or child-placing agency shall have discretion to determine an appropriate foster placement for the child. Except as provided in this section, the Department or child-placing agency may remove a child in its custody from a foster placement whenever the Department or child-placing agency determines that removal is in the best interests of the deprived child.

C. 1. In order to promote stability for foster children and limit repeated movement of such children from one foster placement to another, the Department or child-placing agency, except as otherwise provided by this subsection, shall not change the foster home or group home placement of a child without the approval of the court in the following circumstances:

- a. the court or other party receiving notice from the Department of the movement of the child has filed a written request for an informal hearing, as provided in Section 1-4-804 of this title,
- b. the court has stayed a planned change in a child's placement pending a judicial review due to a verbal or written objection made by a party or by a foster parent or group home representative during a court proceeding, or
- c. a foster parent or representative of a group home with whom the child has resided for more than six (6) months objects, in writing pursuant to the provisions of this subsection, after notice of the removal of the child by the Department or the child-placing agency.

2. The objection shall be filed with the court by the foster parent or group home and served on the Department or child-placing agency within five (5) judicial days after receipt of the notice from the Department or child-placing agency regarding removal of the child. The court shall provide for notice to other parties in the case.

3. Timely filing and service of the objection shall stay removal of the child pending review of the court unless the Department's or child-placing agency's stated reason for removal is due to an

emergency. As used in this paragraph, "emergency" means a removal that is:

- a. pursuant to an order of the court entered during or following a hearing including, but not limited to, an order authorizing placement of a child with a parent or sibling,
- b. at the request of the foster parent or group home,
- c. for emergency medical or behavioral health treatment,
- d. due to substantial noncompliance by the foster parent or group home with applicable contract requirements and agreements such that the health, safety, or welfare of the child is in imminent danger, or
- e. due to a pending investigation of allegations of abuse or neglect of a child by a foster parent or other person residing in the foster family home or group home.

4. The court shall conduct an informal placement review hearing within fifteen (15) judicial days on any objection filed by a party, foster parent or group home pursuant to this section. The court may order that the child remain in or be returned to the home of the objecting foster parent or group home if the court finds that the placement decision of the Department or child-placing agency was arbitrary, inconsistent with the child's permanency plan or not in the best interests of the child.

Added by Laws 1996, c. 353, § 8, eff. Nov. 1, 1996. Amended by Laws 1997, c. 389, § 15, eff. Nov. 1, 1997; Laws 1998, c. 414, § 9, emerg. eff. June 11, 1998; Laws 2000, c. 374, § 35, eff. July 1, 2000; Laws 2002, c. 445, § 7, eff. Nov. 1, 2002; Laws 2009, c. 233, § 100, emerg. eff. May 21, 2009. Renumbered from § 7208 of Title 10 by Laws 2009, c. 233, § 251, emerg. eff. May 21, 2009. Amended by Laws 2014, c. 105, § 3, eff. Nov. 1, 2014.

NOTE: Laws 1997, c. 386, § 13 repealed by Laws 1998, c. 5, § 29, emerg. eff. March 4, 1998.

§10A-1-4-806. Trial home reunification.

A. The court may order a trial home reunification by returning the child to the care of the parent or legal guardian from whom the child was removed for a period not to exceed six (6) months; provided, when determined necessary the court may extend the period of trial reunification to a specific date certain by entering such extension order prior to the expiration of the initial six-month trial reunification period. The Department of Human Services shall conduct a criminal background check of any adult in the home, who is not a parent, legal guardian, or custodian, prior to any trial reunification. The background check shall include inquiries into Oklahoma State Bureau of Investigation and Federal Bureau of Investigation records for a national criminal history record check

pursuant to the provisions of Section 150.9 of Title 74 of the Oklahoma Statutes.

During the period of the trial home reunification, the Department of Human Services shall:

1. Continue to have legal custody of the child, thereby permitting the Department to visit the child in the home of the parent, at school, in a child care facility, or any other setting the Department deems necessary and appropriate;

2. Continue to provide appropriate services to both the parent, if eligible, and the child during the period of the trial home reunification;

3. Terminate the trial home reunification and remove the child to foster care, without court order or authorization, when necessary to protect the child's health, safety, or welfare; and

4. Advise the court and parties within three (3) judicial days of the termination of the trial home reunification when terminated by the Department without a court order.

B. 1. When trial home reunification is terminated whether by the Department or court order, the Department shall prepare a report for the court which describes the circumstances of the child during the trial home reunification period and recommends court orders, if any, deemed appropriate to provide for the safety and stability of the child.

2. In the event a trial home reunification is terminated by the Department by removing the child to foster care without prior court order or authorization, the court shall conduct a hearing within fifteen (15) days of receiving notice of the termination of the trial home reunification by the Department and shall determine whether a continuation of the child in the child's home or with the child's caretaker is contrary to the welfare of the child and whether reasonable efforts were made to prevent the removal of the child from the trial home reunification.

C. 1. Upon the completion of the six-month trial home reunification period or any extension thereof, the court may further extend supervision of the child in the home by awarding legal custody of the child to the parent or legal guardian with whom the child has been reunited and ordering the Department to provide supervision in accordance with the rules promulgated by the Commission.

2. The duration of the extended supervision shall not exceed six (6) months except in circumstances the court deems appropriate and necessary to protect the health, safety or welfare of the child.

Added by Laws 1998, c. 416, § 5, eff. Nov. 1, 1998. Amended by Laws 2004, c. 452, § 1, eff. Nov. 1, 2004; Laws 2009, c. 233, § 39, emerg. eff. May 21, 2009. Renumbered from § 7003-5.5a of Title 10 by Laws 2009, c. 233, § 252, emerg. eff. May 21, 2009. Amended by Laws 2010, c. 278, § 13, eff. Nov. 1, 2010; Laws 2011, c. 244, § 2, eff. Nov. 1, 2011; Laws 2012, c. 353, § 4, emerg. eff. June 8, 2012.

§10A-1-4-807.1. Emergency hearings.

A. Once a child is the subject of a deprived child proceeding, any party may file a verified application for an emergency hearing that demonstrates harm or threatened harm to the health, safety or welfare of that child. Upon receipt of the application for emergency hearing, the court shall have seventy-two (72) hours to conduct a hearing. If the court fails to conduct a hearing within that time, the movant may present the application for emergency hearing to the presiding judge or the presiding juvenile judge of the judicial district who shall conduct an emergency hearing within twenty-four (24) hours of receipt of the application.

B. Nothing in this section shall prohibit a court from issuing an emergency order sua sponte to protect the health, safety and welfare of a child subject to a deprived child proceeding in juvenile court pending hearing on the application.

C. If the court finds that any relevant information provided to the court upon which the court relied to make its emergency order decision to be false, the court shall assess against the movant all costs, attorney fees and other expenses incurred as a result of the emergency hearing. The movant shall pay all such costs, fees and expenses within thirty (30) days. Failure to make this payment shall be grounds for contempt, punishable by six (6) months in the county jail, a fine not to exceed One Thousand Dollars (\$1,000.00), or by both imprisonment and fine.

Added by Laws 2014, c. 151, § 1, eff. Nov. 1, 2014.

§10A-1-4-807. Review hearing.

A. 1. Every case regarding a child alleged or adjudicated to be deprived shall be reviewed by the court at a hearing no later than six (6) months from the date of the child's removal from the home and at least once every six (6) months thereafter until permanency is achieved or the court otherwise terminates jurisdiction except as otherwise set forth in paragraph 2 of this subsection. A review hearing may be held concurrently with a permanency hearing.

2. When the Department of Human Services has documented a compelling reason why a petition to terminate parental rights to a child is not in the best interests of the child that is based upon a consideration that the child is presently not capable of functioning in a family setting, the court shall reevaluate the status of the child every ninety (90) days until there is a final determination that the child cannot be placed in a family setting.

3. At any time during the pendency of the case, any party may request the court to review the case. If granted, the requesting party shall serve notice on all parties of the date and time of the hearing.

B. If a foster parent, group home, preadoptive parent, or relative is currently providing care for a child, the Department shall give the foster parent, group home, preadoptive parent, or relative notice of a proceeding concerning the child. A foster parent, group home representative, preadoptive parent, or relative providing care for a child has the right to be heard at the proceeding. Except when allowed to intervene, the foster parent, group home, preadoptive parent, or relative providing care for the child is not considered a party to the juvenile court proceeding solely because of notice and the right to be heard at the proceeding.

C. The court shall receive all evidence helpful in deciding the issues before the court including, but not limited to, oral and written reports, which may be admitted and relied upon to the extent of their probative value, even though not competent for purposes of an adjudicatory hearing. All service provider progress reports and critical incident reports shall be submitted to the court and shall also be delivered to the district attorney, the attorney or attorneys representing the parents or group home, the child's attorney and guardian ad litem, if applicable, and the relevant tribe or tribes, if applicable.

D. At each review hearing the court shall:

1. Determine and include the following in its orders:

- a. whether the individualized service plan, services, and placement meet the special needs and best interests of the child with the child's health, safety, and educational needs specifically addressed,
- b. whether there is a need for the continued placement of the child,
- c. whether the current permanency plan for the child remains the appropriate plan to meet the health, safety, and best interests of the child,
- d. whether the services set forth in the individualized service plan and the responsibilities of the parties need to be clarified or modified due to the availability of additional information or changed circumstances or as the court determines to be in the best interests of the child and necessary for the correction of the conditions that led to the adjudication of the child,
- e. whether the terms of visitation need to be modified, including the visitation with siblings if separated,
- f. the time frame that should be followed to achieve reunification or other permanent plan for the child,
- g. whether reasonable efforts have been made to provide for the safe return of the child to the child's own home. If the court determines or has previously determined that reasonable efforts are not required

- pursuant to the provisions of Section 1-4-809 of this title, or that continuation of reasonable efforts to reunite the child with the child's family is inconsistent with the permanency plan for the child, the court shall determine if reasonable efforts are being made to place the child in a timely manner in accordance with the permanency plan and determine the steps necessary to finalize permanency for the child,
- h. where appropriate, when the child is fourteen (14) years of age or older, whether services are being provided that will assist the child in making the transition from foster care to a successful adulthood. The court shall inquire or cause inquiry to be made of the child regarding any proposed independent living plan,
  - i. whether the nature and extent of services being provided the child and parent or parents of the child are adequate and shall order that additional services be provided or studies, assessments, or evaluations be conducted, if necessary, to ensure the safety of the child and to protect the child from further physical, mental, or emotional harm, or to correct the conditions that led to the adjudication,
  - j. whether, in accordance with the safety or well-being of any child, reasonable efforts have been made to:
    - (1) place siblings, who have been removed, together in the same foster care, guardianship, or adoptive placement, and
    - (2) provide for frequent visitation or other ongoing interaction in the case of siblings who have been removed and who are not placed together, and
  - k. whether, during the ninety-day period immediately prior to the date on which the child in the custody of the Department will attain eighteen (18) years of age, the Department and, as appropriate, other representatives of the child are providing the child with assistance and support in developing an appropriate transition plan that is personalized at the direction of the child, that includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and work force supports and employment services, and is as detailed as the child may elect;

2. Consider in-state and out-of-state placement options for the child; and

3. Determine the safety of the child and consider fully all relevant prior and current information including, but not limited to,

the report or reports submitted pursuant to Sections 1-4-805 and 1-4-808 of this title.

E. In making its findings, the court shall consider the following:

1. Whether compliance with the individualized service plan has occurred, including whether the Department has provided care that is consistent with the health, safety, and educational needs of the child while in an out-of-home placement;
2. Whether the Department is taking appropriate steps to ensure that the foster family follows the reasonable and prudent parent standard and whether the child has regular opportunities to engage in age-appropriate or developmentally appropriate activities;
3. The extent of progress that has been made toward alleviating or correcting the conditions that caused the child to be adjudicated deprived;
4. Whether the child should be returned to a parent or parents and whether or not the health, safety, and welfare of the child can be protected by a parent or parents if returned home; and
5. An appropriate permanency plan for the child, including concurrent planning when applicable, pursuant to Section 1-4-706 of this title; provided, a permanency plan for a planned alternative permanent placement shall be limited to a child age sixteen (16) or older.

Added by Laws 1981, c. 289, § 1, eff. Oct. 1, 1981. Amended by Laws 1983, c. 113, § 2, eff. Nov. 1, 1983; Laws 1989, c. 126, § 1, emerg. eff. May 1, 1989; Laws 1990, c. 272, § 3, eff. Sept. 1, 1990; Laws 1991, c. 296, § 19, eff. Sept. 1, 1991; Laws 1992, c. 298, § 28, eff. July 1, 1993; Laws 1992, c. 373, § 3, eff. July 1, 1992; Laws 1994, c. 290, § 42, eff. July 1, 1994; Laws 1995, c. 352, § 33, eff. July 1, 1995. Renumbered from § 1116.1 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1996, c. 353, § 23, eff. Nov. 1, 1996; Laws 1997, c. 389, § 6, eff. Nov. 1, 1997; Laws 1998, c. 421, § 19, emerg. eff. June 11, 1998; Laws 2000, c. 374, § 19, eff. July 1, 2000; Laws 2002, c. 237, § 2, emerg. eff. May 9, 2002; Laws 2004, c. 452, § 2, eff. Nov. 1, 2004; Laws 2007, c. 196, § 2, eff. July 1, 2007; Laws 2009, c. 160, § 4, emerg. eff. May 11, 2009; Laws 2009, c. 233, § 40, emerg. eff. May 21, 2009. Renumbered from § 7003-5.6 of Title 10 by Laws 2009, c. 233, § 253, emerg. eff. May 21, 2009. Amended by Laws 2011, c. 244, § 3, eff. Nov. 1, 2011; Laws 2014, c. 105, § 4, eff. Nov. 1, 2014; Laws 2015, c. 173, § 4, eff. Nov. 1, 2015.

NOTE: Laws 1992, c. 299, § 10 repealed by Laws 1992, c. 373, § 22, eff. July 1, 1992.

§10A-1-4-808. Review hearing report - Child's access to counsel.

A. The Department of Human Services or the agency having supervision of the case or, if the child has been removed from the

custody of the child's parents, the Department or the agency or child-placing agency having custody of the child shall cause to be prepared for each review hearing required herein a written report concerning each child who is the subject of review.

B. The report shall include, but not be limited to:

1. A summary of the physical, mental, and emotional condition of the child, the conditions existing in the out-of-home placement where the child has been placed, and the adjustment of the child thereto;

2. A report on the progress of the child in school and, if the child has been placed outside the child's home, the visitation exercised by the parents of the child or other persons authorized by the court;

3. Services being provided to a child sixteen (16) years of age or older to assist in the transition from out-of-home care or other community placement to independent living;

4. When the Department is responsible for supervision of the child or is the legal custodian of the child, a description of:

a. progress on the part of the parent or parents to correct the conditions which caused the child to be adjudicated deprived,

b. changes that still need to occur and the specific actions the parents would take to make the changes, and

c. services and assistance that have been offered or provided to the parents since the previous hearing and the services which are needed in the future;

5. A description of the placements of the child by number and type with dates of entry and exit, reasons for the placement or change in placement, and a statement about the success or lack of success of each placement;

6. The efforts of the Department to locate the parents and involve them in the planning for the child if the parents are not currently communicating with the Department;

7. Compliance by the Department, as applicable, and the parent with the court's orders concerning the individualized service plans, previous court orders, and the Department recommendations;

8. Whether the current placement is appropriate for the child, its distance from the home of the child, and whether it is the least restrictive, most family-like placement available;

9. A proposed timetable for the return of the child to the home or other permanent placement; and

10. Specific recommendations, giving reasons whether:

a. trial reunification should be approved by the court,

b. trial reunification should be continued to a date certain as specified by the court,

c. the child should remain in or be placed outside of the home of the parent or legal guardian of the child, or

- d. the child should remain in the current placement when the permanency plan is other than reunification with the parent or legal guardian of the child.

C. The attorney representing a child, the foster parents of the child and the guardian ad litem of a child, if any, whose case is being reviewed may submit a report to the court for presentation at the review hearing to assist the court in reviewing the placement or status of the child. The legal custodian shall not deny to a child the right of access to counsel and shall facilitate such access. Added by Laws 1996, c. 353, § 24, eff. Nov. 1, 1996. Amended by Laws 1998, c. 421, § 20, emerg. eff. June 11, 1998; Laws 2009, c. 233, § 41, emerg. eff. May 21, 2009. Renumbered from § 7003-5.6a of Title 10 by Laws 2009, c. 233, § 254, emerg. eff. May 21, 2009. Amended by Laws 2015, c. 30, § 1, eff. Nov. 1, 2015.

§10A-1-4-809. Findings establishing that reasonable efforts to reunify child are not required.

A. At any time prior to or following the adjudicatory hearing the court, on its own motion or upon the motion of a party, may find that reasonable efforts to prevent the removal of a child from home or to reunify the child and family are not required if the court determines, based upon a preponderance of the evidence, that:

1. The parent or legal guardian of the child, who is an infant age twelve (12) months or younger, has abandoned the child;
2. The parent or legal guardian of the child has:
  - a. committed murder or manslaughter of any child,
  - b. aided or abetted, attempted, conspired, or solicited to commit the murder or manslaughter of any child,
  - c. committed a felony assault upon any child that resulted in the child receiving serious bodily injury, or
  - d. subjected any child to aggravated circumstances including, but not limited to, heinous and shocking abuse or heinous and shocking neglect;
3. The parental rights of a parent to the child's sibling have been terminated involuntarily;
4. The parent has been found by a court of competent jurisdiction to have committed sexual abuse against the child or another child of the parent; or
5. The parent is required to register with a sex offender registry pursuant to Section 113(a) of the Adam Walsh Child Protection and Safety Act of 2006, 42 U.S.C., Section 16913(a).

B. The court shall conduct a permanency hearing within thirty (30) days of a determination by the court that any of the conditions specified in subsection A of this section exist. Reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan.

Added by Laws 1998, c. 421, § 14, emerg. eff. June 11, 1998. Amended by Laws 2000, c. 374, § 15, eff. July 1, 2000; Laws 2009, c. 233, § 32, emerg. eff. May 21, 2009. Renumbered from § 7003-4.6 of Title 10 by Laws 2009, c. 233, § 255, emerg. eff. May 21, 2009. Amended by Laws 2012, c. 353, § 5, emerg. eff. June 8, 2012.

§10A-1-4-810. Permanency meeting and reports.

A. 1. When a child has been in out-of-home care for twelve (12) months or longer, the court may require that the Department of Human Services facilitate a meeting held no later than thirty (30) days prior to the permanency hearing to discuss recommendations regarding the child's permanency plan that will be reported to and reviewed by the court.

2. The court may direct that the assigned guardian ad litem, which may be a court-appointed special advocate, if any, a judicial case manager, or the Department make arrangements for the meeting. The foster parents of the child or a representative of a group home where the child is placed, the parents of the child, or the parents' attorney, a postadjudication review board member, the guardian ad litem who has been appointed to the case, the child, and others as appropriate, and the child's attorney shall be contacted to assist in the preparation of the report; provided, however, persons determined not to require reasonable efforts pursuant to the provisions of Section 1-4-809 of this title shall not be required to attend.

B. 1. Prior to a permanency hearing, the Department shall prepare a report regarding the child for court review and shall provide a copy of the report to the court and the parties not less than three (3) judicial days prior to the permanency hearing.

2. The report shall include the proposed permanency plan by the Department, the efforts by the Department to effectuate the permanency plan for the child, address the options for the permanent placement of the child, and examine the reasons for excluding higher priority options.

3. Unless a permanency hearing has been conducted, the Department, as applicable, shall contact the foster parents or group home of the child, the parents of the child, or the parents' attorney, a postadjudication review board member, the guardian ad litem, or the court appointed special advocate who has been appointed to the case, and the child's attorney to assist in the preparation of the report.

C. The up-to-date and accurate report shall also contain, but not be limited to, the following information, if relevant:

1. Efforts and progress demonstrated by the child's parent to complete an individual treatment and service plan;

2. Status of the child, including the child's behavioral, physical, and emotional health;

3. A recommendation regarding whether the child's current permanency goal should be continued or modified, the reasons therefor, and the anticipated date for meeting the goal; and

4. A recommendation regarding whether the placement of the child should be extended and the reasons for the recommendation.

D. The child's attorney, the parents or parents' attorney, the foster parent or group home representative, the postadjudicatory review board member, the guardian ad litem, or the court appointed special advocate of the child may submit additional informational reports to the court for review.

Added by Laws 1998, c. 421, § 22, emerg. eff. June 11, 1998. Amended by Laws 2003, c. 105, § 2, eff. Nov. 1, 2003; Laws 2004, c. 452, § 4, eff. Nov. 1, 2004; Laws 2009, c. 233, § 44, emerg. eff. May 21, 2009. Renumbered from § 7003-5.6e of Title 10 by Laws 2009, c. 233, § 256, emerg. eff. May 21, 2009. Amended by Laws 2014, c. 105, § 5, eff. Nov. 1, 2014.

§10A-1-4-811. Permanency hearing and findings.

A. 1. The court shall conduct a permanency hearing to determine the appropriate permanency goal for the child and to order completion of all steps necessary to finalize the permanent plan. The hearing shall be held no later than:

- a. six (6) months after placing the child in out-of-home placement and every six (6) months thereafter, and
- b. thirty (30) days after a determination by the court that reasonable efforts to return a child to either parent are not required pursuant to the provisions of Section 1-4-809 of this title.

2. A child shall be considered to have entered out-of-home placement on the earlier of:

- a. the adjudication date, or
- b. the date that is sixty (60) days after the date on which the child is removed from the home.

3. Subsequent permanency hearings shall be held at least every six (6) months for any child who continues to be in an out-of-home placement. At the request of a party, the Department of Human Services, or on the motion of the court, the initial and subsequent permanency hearings may be held more frequently.

4. At each permanency hearing, the court may consider testimony of any person who has relevant information about the status of the child or the status of the treatment plan. All parties shall have the opportunity to present evidence and to cross-examine witnesses. The rules of evidence shall not apply to permanency hearings and all evidence helpful in determining the proper permanency goal shall be considered including, but not limited to, oral and written reports, which may be admitted and may be relied upon to the extent of their

probative value, even though not competent for the purposes of the adjudicatory hearing.

5. The permanency plan for the child in transition to a successful adulthood shall be developed in consultation with the child and, at the option of the child, with up to two members of the permanency planning team to be chosen by the child, excluding the foster parent and caseworker for the child, subject to the following provisions:

- a. one individual selected by the child may be designated to be the advisor and, as necessary, advocate of the child, with respect to the application of the reasonable and prudent parent standard to the child, and
- b. the Department of Human Services may reject an individual selected by the child to be a member of the permanency planning team at any time if the Department has good cause to believe that the selected individual would not act in the best interests of the child.

B. A permanency hearing may be held concurrently with a dispositional or review hearing.

C. If a foster parent, preadoptive parent, or relative is currently providing care for a child, the Department shall give the foster parent, preadoptive parent, or relative notice of a proceeding concerning the child. A foster parent, preadoptive parent, or relative providing care for a child has the right to be heard at the proceeding. Except when allowed to intervene, the foster parent, preadoptive parent, or relative providing care for the child is not considered a party to the juvenile court proceeding solely because of notice and the right to be heard at the proceeding.

D. At the hearing, the court shall determine or review the continued appropriateness of the permanency plan of the child and whether a change in the plan is necessary, the date by which the goal of permanency for the child is scheduled to be achieved, and whether the current placement of the child continues to be the most suitable for the health, safety, and welfare of the child. The court shall also, in an age-appropriate manner, inquire or cause inquiry to be made of the child regarding the proposed permanency plan and if the child is age fourteen (14) or older, the planning for the transition of the child to a successful adulthood.

E. A transcript shall be made of each permanency hearing or the proceeding shall be memorialized by appropriate written findings of facts, and the court having considered all relevant information shall order one of the following permanency plans for the child:

1. Reunification with the parent, parents, or legal guardian of the child where:

- a. reunification can be expected to occur within an established time frame that is consistent with the developmental needs of the child, and
  - b. the health and safety of the child can be adequately safeguarded if returned home;
2. Placement for adoption after the rights of the parents have been terminated or after a petition has been filed to terminate parental rights;
3. Placement with a person who will be the permanent guardian of the child and is able to adequately and appropriately safeguard the health, safety, and welfare of the child; or
4.
  - a. Placement in the legal custody of the Department under a planned alternative permanent placement, provided the child is age sixteen (16) or older and there are compelling reasons documented by the Department and presented to the court at each permanency hearing that include the intensive, ongoing and, as of the date of the hearing, unsuccessful efforts made to:
    - (1) return the child home, or
    - (2) place the child with a fit and willing relative, including adult siblings, a legal guardian, or an adoptive parent, and
    - (3) find biological family members for the child utilizing search technology, including social media.
  - b. The Department shall also document at each permanency hearing the steps taken, including inquiry of the child in an age-appropriate manner, to ensure that:
    - (1) the foster family home of the child or facility where the child is placed is following the reasonable and prudent parent standard, and
    - (2) the child has regular, ongoing opportunities to engage in age-appropriate or developmentally appropriate activities.
  - c. When a planned alternative permanent placement is the court-ordered permanency plan for the child, the court shall at each permanency hearing:
    - (1) ask the child about the permanency outcome the child desires, and
    - (2) make a judicial determination, as of the date of the hearing, why a planned alternative permanent placement is the best permanency plan for the child and provide compelling reasons why it continues to not be in the best interests of the child to return home or be placed for adoption with a legal guardian or with a fit and willing relative.

F. In addition to the findings required under subsection E of this section, the court shall also make written findings related to:

1. Whether the Department has made reasonable efforts to finalize the permanency plan that is in effect for the child and a summary of the efforts the Department has made; or, in the case of an Indian child, whether the Department has made active efforts to provide remedial services and rehabilitative programs as required by 25 U.S.C., Section 1912(d);

2. If the permanency plan is for the child to remain in out-of-home care, whether the child's out-of-home placement continues to be appropriate and in the best interests of the child;

3. If the current placement is not expected to be permanent, the court's projected timetable for return home or for placement in an adoptive home with a guardian, or another planned permanent living arrangement; and

4. Whether reasonable efforts, in accordance with the safety or well-being of any child, have been made to:

a. place siblings, who have been removed, together in the same foster care, guardianship, or adoptive placement, and

b. provide for frequent visitation or other ongoing interaction in the case of siblings who have been removed and who are not placed together.

G. The court may make appropriate orders to ensure timely implementation of the permanency plan and shall order the plan to be accomplished within a specified period of time.

Added by Laws 1998, c. 421, § 21, emerg. eff. June 11, 1998. Amended by Laws 2000, c. 374, § 20, eff. July 1, 2000; Laws 2002, c. 237, § 3, emerg. eff. May 9, 2002; Laws 2004, c. 452, § 3, eff. Nov. 1, 2004; Laws 2007, c. 196, § 3, eff. July 1, 2007; Laws 2009, c. 160, § 5, emerg. eff. May 11, 2009; Laws 2009, c. 233, § 43, emerg. eff. May 21, 2009. Renumbered from § 7003-5.6d of Title 10 by Laws 2009, c. 233, § 257, emerg. eff. May 21, 2009. Amended by Laws 2015, c. 173, § 5, eff. Nov. 1, 2015; Laws 2019, c. 243, § 1, eff. Nov. 1, 2019.

§10A-1-4-812. Determination of eligibility of foster parent to adopt.

A. During any permanency hearing, if it is determined by the court that a child should be placed for adoption, the foster parent of the child shall be considered eligible to adopt the child, if the foster parent meets established eligibility requirements pursuant to this section.

B. If the child has resided with a foster parent for at least one (1) year, the court shall give great weight to the foster parent in the adoption consideration for the child unless there is an existing loving emotional bond with a relative of the child by blood or marriage who is willing, able, and eligible to adopt the child.

C. In making such determination, the court shall consider whether the child has become integrated into the foster family to the extent that the child's familial identity is with the foster family, and whether the foster family is able and willing permanently to treat the child as a member of the family. The court shall consider, without limitation:

1. The love, affection, and other emotional ties existing between the child and the relatives of the child, and the child's ties with the foster family;

2. The capacity and disposition of the child's relatives as compared with that of the foster family to give the child love, affection, and guidance and to continue the education of the child;

3. The length of time a child has lived in a stable, satisfactory foster home and the desirability of the child's continuing to live in that environment;

4. The physical and mental health of the relatives of the child as compared with that of the foster family;

5. The experiences of the child in the home, school, and community, both when with the parents from whom the child was removed and when with the foster family;

6. The age and preference of the child;

7. The long-term best interests of the child; and

8. Any other factor considered by the court to be relevant to a particular placement of the child.

Added by Laws 1998, c. 414, § 18, emerg. eff. June 11, 1998. Amended by Laws 2005, c. 75, § 1, eff. Nov. 1, 2005; Laws 2009, c. 233, § 46, emerg. eff. May 21, 2009. Renumbered from § 7003-5.6h of Title 10 by Laws 2009, c. 233, § 258, emerg. eff. May 21, 2009.

§10A-1-4-813. Postadoption agreements with birth relatives.

A. 1. When the court, pursuant to Section 1-4-812 of this title, finds that a deprived child should be placed for adoption, nothing in the adoption laws of this state shall be construed to prevent the petitioners for adoption of the child from voluntarily entering into a written agreement with the birth relatives, including a birth parent, to permit postadoption contact between the birth relatives and the child. The postadoption contact agreement shall be issued by the court in a separate instrument at the time an adoption decree is entered if the court finds the agreement is voluntary, does not pose a threat to the safety of the child, and is in the best interests of the child.

2. For purposes of this section, "birth relative" means a parent, stepparent, grandparent, great-grandparent, sibling, uncle or aunt of a minor adoptee. This relationship may be by blood or marriage, provided a sibling relationship may be by whole or half blood, marriage, or affinity through a common legal or biological parent. For an Indian child, birth relative includes members of the

extended family as defined by the laws or customs of the Indian child's tribe or, in the absence of laws or customs, shall be a person who has reached eighteen (18) years of age and who is the Indian child's great-grandparent, grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece, nephew, or first or second cousin or stepparent, as provided in the Indian Child Welfare Act, United States Code, Title 25, Section 1903.

3. If a child who is separated from a sibling is ordered to be placed for adoption, the court shall order that the Department shall take all of the following steps to facilitate ongoing sibling contact or visitation:

- a. provide information to prospective adoptive parents about the importance of sibling relationships to the adopted child and counseling on methods for maintaining sibling relationships,
- b. provide prospective adoptive parents with information about siblings of the child; provided, the address where the siblings reside shall not be disclosed unless authorized by a court order for good cause shown, and
- c. encourage prospective adoptive parents to make a plan for facilitating postadoptive contact between the child who is the subject of a petition for adoption and any siblings of that child.

4. The terms of the postadoption agreement executed under this section shall be limited to, but need not include, the following if the child has an existing relationship with the birth relative:

- a. provisions for visitation between the child and the birth relatives,
- b. provisions for contact between birth relatives and the child or an adoptive parent, or both,
- c. provisions for the adoptive parent to facilitate sibling contact or visitation, and
- d. provisions for the sharing of information about the child.

5. The terms of any postadoption agreement shall be limited to the sharing of information about the child if the child did not have an existing relationship with the birth relative.

B. 1. A postadoption agreement is not legally enforceable unless the terms of the agreement are contained in a written court order entered in accordance with this section.

2. An order must be sought and shall be filed in the adoption action. The order shall be issued by separate instrument at the time an adoption decree is entered.

3. The court shall not enter a proposed order unless the terms of the order have been approved in writing by the prospective adoptive parents, the birth relative who desires to be a party to the agreement, the child, if twelve (12) years of age or older, and, if

the child is in the custody of the Department of Human Services, a representative of the Department. The child shall be represented by an attorney for purposes of consent to the postadoption agreement.

4. The postadoption agreement approved by the court regarding sibling contact or visitation shall be provided by the Department to the adoptive parent or parents, foster parent, relative caretaker, legal guardian of the child and siblings or others as necessary to facilitate the sibling contact or visitation.

C. Failure to comply with the terms of the postadoption agreement as ordered by the court pursuant to this section shall not be grounds for:

1. Setting aside an adoption decree;
2. Revocation of a written consent to an adoption after that consent has become irrevocable;
3. An action for citation of indirect contempt of court; and
4. Preventing the adoptive parent or parents of the child from changing residence within or outside the state.

D. 1. Although the entry of the decree of adoption terminates the jurisdiction of the juvenile court over the child, the enforcement of the postadoption agreement and subsequent order shall be under the continuing jurisdiction of the court granting the petition for adoption.

2. The court may not order compliance with the agreement absent a finding that the party seeking the enforcement participated in good faith in mediation or other appropriate dispute resolution proceedings regarding the conflict prior to the filing of the enforcement action, and that the enforcement is in the best interests of the child. Documentary evidence or offers of proof may serve as the basis for the court's decision regarding enforcement. No testimony or evidentiary hearing shall be required.

3. The prevailing party may be awarded reasonable attorney fees and costs. All costs and fees of mediation or other appropriate dispute resolution proceedings shall be borne by each party, excluding the child.

E. A postadoption agreement may be modified or terminated only if the court finds that the modification or termination is necessary to serve the best interests of the child, and is agreed to by all parties, including the child if the child is twelve (12) years of age or older at the time of the requested modification or termination. Added by Laws 1998, c. 421, § 23, emerg. eff. June 11, 1998. Amended by Laws 2000, c. 374, § 21, eff. July 1, 2000; Laws 2009, c. 233, § 45, emerg. eff. May 21, 2009. Renumbered from § 7003-5.6f of Title 10 by Laws 2009, c. 233, § 259, emerg. eff. May 21, 2009.

§10A-1-4-814. Modification of decrees or orders.

Any decree or order made pursuant to the provisions of the Oklahoma Children's Code may be modified by the court at any time;

provided, however, that an order terminating parental rights shall not be modified.

Added by Laws 1968, c. 282, § 118, eff. Jan. 13, 1969. Amended by Laws 1979, c. 257, § 5, eff. Oct. 1, 1979; Laws 1981, c. 238, § 4, eff. Oct. 1, 1981; Laws 1995, c. 352, § 34, eff. July 1, 1995.

Renumbered from § 1118 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Renumbered from § 7003-6.1 of Title 10 by Laws 2009, c. 233, § 260, emerg. eff. May 21, 2009.

§10A-1-4-901. Filing of petition or motion for termination of parental rights.

A. A petition or motion for termination of parental rights may be filed independently by either the district attorney or the attorney of a child alleged to be or adjudicated deprived.

B. A petition or motion for termination of parental rights shall be filed by the district attorney for those petitions or motions required to be filed pursuant to the provisions of Section 1-4-902 of this title.

C. If a child's attorney files a petition or motion for the termination of the parental rights of the parents of the child, the district attorney shall join in the petition or motion for those petitions or motions required to be filed by the district attorney pursuant to the provisions of Section 1-4-902 of this title, unless an exception to filing exists.

Added by Laws 1982, c. 312, § 39, operative July 1, 1982. Amended by Laws 1995, c. 352, § 8, eff. July 1, 1995. Renumbered from § 1405 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1998, c. 421, § 5, emerg. eff. June 11, 1998; Laws 2009, c. 233, § 16, emerg. eff. May 21, 2009. Renumbered from § 7002-3.1 of Title 10 by Laws 2009, c. 233, § 261, emerg. eff. May 21, 2009.

§10A-1-4-902. Termination motion or petition by district attorney.

A. The district attorney shall file a petition or motion for termination of the parent-child relationship and parental rights with respect to a child or shall join in the petition or motion, if filed by the child's attorney, in any of the following circumstances:

1. Prior to the end of the fifteenth month when a child has been placed in foster care by the Department of Human Services for fifteen (15) of the most recent twenty-two (22) months. For purposes of this paragraph, a child shall be considered to have entered foster care on the earlier of:

- a. the date of adjudication as a deprived child, or
- b. the date that is sixty (60) days after the date on which the child is removed from the home;

2. No later than sixty (60) days after a child has been judicially determined to be an abandoned infant;

3. No later than sixty (60) days after a court has determined that reasonable efforts to reunite are not required due to a felony conviction of a parent of any of the following acts:

- a. permitting a child to participate in pornography,
- b. rape, or rape by instrumentation,
- c. lewd molestation of a child under sixteen (16) years of age,
- d. child abuse or neglect,
- e. enabling child abuse or neglect,
- f. causing the death of a child as a result of the physical or sexual abuse or chronic abuse or chronic neglect of the child,
- g. causing the death of a sibling of the child as a result of the physical or sexual abuse or chronic abuse or chronic neglect of the child's sibling,
- h. murder of any child or aiding or abetting, attempting, conspiring in, or soliciting to commit murder of any child,
- i. voluntary manslaughter of any child,
- j. a felony assault that has resulted in serious bodily injury to the child or another child of the parent, or
- k. murder or voluntary manslaughter of the child's parent or aiding or abetting, attempting, conspiring in, or soliciting to commit murder of the child's parent; or

4. No later than ninety (90) days after the court has ordered the individualized service plan if the parent has made no measurable progress in correcting the conditions which caused the child to be adjudicated deprived.

B. If any of the following conditions exist, the district attorney is not required to file a petition as provided in subsection A of this section for a deprived child:

1. At the option of the Department or by order of the court, the child is properly being cared for by a relative;

2. The Department has documented a compelling reason for determining that filing a petition to terminate parental rights would not serve the best interests of the child that may include consideration of any of the following circumstances:

- a. the parents or legal guardians have maintained a relationship with the child and the child would benefit from continuing this relationship,
- b. the child, who is twelve (12) years or older, objects to the termination of the parent-child legal relationship,
- c. the foster parents of the child are unable to adopt the child because of exceptional circumstances which do not include an unwillingness to accept legal responsibility for the child but are willing and capable of providing

the child with a stable and permanent environment, and the removal of the child from the physical custody of the foster parents would be seriously detrimental to the emotional well-being of the child because the child has substantial psychological ties to the foster parents,

- d. the child is not capable of achieving stability if placed in a family setting, or
- e. the child is an unaccompanied, refugee minor and the situation regarding the child involves international legal issues or compelling foreign policy issues; or

3. The state has not provided to the family of the child, consistent with the time period in the state case plan, services that the state deems necessary for the safe return of the child to the child's home, if reasonable efforts are required to be made with respect to the child.

Added by Laws 1998, c. 421, § 15, emerg. eff. June 11, 1998. Amended by Laws 1999, c. 365, § 1, eff. Nov. 1, 1999; Laws 2002, c. 237, § 1, emerg. eff. May 9, 2002; Laws 2009, c. 233, § 33, emerg. eff. May 21, 2009. Renumbered from § 7003-4.7 of Title 10 by Laws 2009, c. 233, § 262, emerg. eff. May 21, 2009. Amended by Laws 2014, c. 382, § 1, eff. Nov. 1, 2014.

§10A-1-4-903. Order to terminate parent-child legal relationship - Show cause.

If the court finds from the information presented by the Department of Human Services that the permanency plan for the child should be adoption, the court may order the district attorney to show cause why it should not file a petition or motion to terminate the parent-child legal relationship pursuant to Section 1-4-903 of this title. Good cause may include, but need not be limited to, any of the following conditions:

1. At the option of the Department or by order of the court, the child is properly being cared for by a relative;

2. The Department has documented a compelling reason for determining that filing a petition to terminate parental rights would not serve the best interests of the child; or

3. The state has not provided to the family of the child, consistent with the time period in the state case plan, such services as the state deems necessary for the safe return of the child to the child's home, if reasonable efforts are required to be made with respect to the child.

Added by Laws 2009, c. 233, § 128, emerg. eff. May 21, 2009.

§10A-1-4-904. Termination of parental rights in certain situations.

A. A court shall not terminate the rights of a parent to a child unless:

1. The child has been adjudicated to be deprived either prior to or concurrently with a proceeding to terminate parental rights; and

2. Termination of parental rights is in the best interests of the child.

B. The court may terminate the rights of a parent to a child based upon the following legal grounds:

1. Upon the duly acknowledged written consent of a parent, who voluntarily agrees to termination of parental rights.

a. The voluntary consent for termination of parental rights shall be signed under oath and recorded before a judge of a court of competent jurisdiction and accompanied by the judge's certificate that the terms and consequences of the consent were fully explained in detail in English and were fully understood by the parent or that the consent was translated into a language that the parent understood.

b. A voluntary consent for termination of parental rights is effective when it is signed and may not be revoked except upon clear and convincing evidence that the consent was executed by reason of fraud or duress.

c. However, notwithstanding the provisions in this paragraph, in any proceeding for a voluntary termination of parental rights to an Indian child, the consent of the parent may be withdrawn for any reason at any time prior to the entry of a final decree of termination. Any consent given prior to, or within ten (10) days after, the birth of an Indian child shall not be valid;

2. A finding that a parent who is entitled to custody of the child has abandoned the child;

3. A finding that the child is an abandoned infant;

4. A finding that the parent of a child:

a. has voluntarily placed physical custody of the child with the Department of Human Services or with a child-placing agency for out-of-home placement,

b. has not complied with the placement agreement, and

c. has not demonstrated during such period a firm intention to resume physical custody of the child or to make permanent legal arrangements for the care of the child;

5. A finding that:

a. the parent has failed to correct the condition which led to the deprived adjudication of the child, and

b. the parent has been given at least three (3) months to correct the condition;

6. A finding that:

- a. the rights of the parent to another child have been terminated, and
- b. the conditions that led to the prior termination of parental rights have not been corrected;

7. A finding that a parent who does not have custody of the child has, for at least six (6) out of the twelve (12) months immediately preceding the filing of the petition or motion for termination of parental rights, willfully failed or refused or has neglected to contribute to the support of the child:

- a. as specified by an order entered by a court of competent jurisdiction adjudicating the duty, amount and manner of support, or
- b. where an order of child support does not exist, according to the financial ability of the parent to contribute to the child's support.

Incidental or token support shall not be construed or considered in establishing whether a parent has maintained or contributed to the support of the child;

8. A finding that the parent has been convicted in a court of competent jurisdiction in any state of any of the following acts:

- a. permitting a child to participate in pornography,
- b. rape, or rape by instrumentation,
- c. lewd molestation of a child under sixteen (16) years of age,
- d. child abuse or neglect,
- e. enabling child abuse or neglect,
- f. causing the death of a child as a result of the physical or sexual abuse or chronic abuse or chronic neglect of the child,
- g. causing the death of a sibling of the child as a result of the physical or sexual abuse or chronic abuse or chronic neglect of the child's sibling,
- h. murder of any child or aiding or abetting, attempting, conspiring, or soliciting to commit murder of any child,
- i. voluntary manslaughter of any child,
- j. a felony assault that has resulted in serious bodily injury to the child or another child of the parents, or
- k. murder or voluntary manslaughter of the child's parent or aiding or abetting, attempting, conspiring, or soliciting to commit murder of the child's parent;

9. A finding that the parent has abused or neglected the child or a sibling of the child or failed to protect the child or a sibling of the child from abuse or neglect that is heinous or shocking;

10. A finding that the parent has previously abused or neglected the child or a sibling of the child or failed to protect the child or

a sibling of the child from abuse or neglect and the child or a sibling of the child has been subjected to subsequent abuse;

11. A finding that the child was conceived as a result of rape perpetrated by the parent whose rights are sought to be terminated;

12. A finding that the parent whose rights are sought to be terminated is incarcerated, and the continuation of parental rights would result in harm to the child based on consideration of the following factors, among others:

- a. the duration of incarceration and its detrimental effect on the parent/child relationship,
- b. any previous convictions resulting in involuntary confinement in a secure facility,
- c. the parent's history of criminal behavior, including crimes against children,
- d. the age of the child,
- e. any evidence of abuse or neglect or failure to protect from abuse or neglect of the child or siblings of the child by the parent,
- f. the current relationship between the parent and the child, and
- g. the manner in which the parent has exercised parental rights and duties in the past.

Provided, that the incarceration of a parent shall not in and of itself be sufficient to deprive a parent of parental rights;

13. A finding that all of the following exist:

- a. the parent has a diagnosed cognitive disorder, an extreme physical incapacity, or a medical condition, including behavioral health, which renders the parent incapable of adequately and appropriately exercising parental rights, duties, and responsibilities within a reasonable time considering the age of the child, and
- b. allowing the parent to have custody would cause the child actual harm or harm in the near future.

A parent's refusal or pattern of noncompliance with treatment, therapy, medication, or assistance from outside the home can be used as evidence that the parent is incapable of adequately and appropriately exercising parental rights, duties, and responsibilities.

A finding that a parent has a diagnosed cognitive disorder, an extreme physical incapacity, or a medical condition, including behavioral health or substance dependency, shall not in and of itself deprive the parent of parental rights;

14. A finding that:

- a. the condition that led to the deprived adjudication has been the subject of a previous deprived adjudication of this child or a sibling of this child, and

- b. the parent has been given an opportunity to correct the conditions which led to the determination of the initial deprived child;

15. A finding that there exists a substantial erosion of the relationship between the parent and child caused at least in part by the parent's serious or aggravated neglect of the child, physical or sexual abuse or exploitation of the child, a prolonged and unreasonable absence of the parent from the child or an unreasonable failure by the parent to visit or communicate in a meaningful way with the child;

16. A finding that a child four (4) years of age or older at the time of placement has been placed in foster care by the Department of Human Services for fifteen (15) of the most recent twenty-two (22) months preceding the filing of the petition or motion for termination of parental rights and the child cannot, at the time of the filing of the petition or motion, be safely returned to the home of the parent. For purposes of this paragraph, a child shall be considered to have entered foster care on the earlier of:

- a. the adjudication date, or
- b. the date that is sixty (60) days after the date on which the child is removed from the home; and

17. A finding that a child younger than four (4) years of age at the time of placement has been placed in foster care by the Department of Human Services for at least six (6) of the twelve (12) months preceding the filing of the petition or motion for termination of parental rights and the child cannot be safely returned to the home of the parent.

- a. For purposes of this paragraph, a child shall be considered to have entered foster care on the earlier of:
  - (1) the adjudication date, or
  - (2) the date that is sixty (60) days after the date on which the child is removed from the home.
- b. For purposes of this paragraph, the court may consider:
  - (1) circumstances of the failure of the parent to develop and maintain a parental bond with the child in a meaningful, supportive manner, and
  - (2) whether allowing the parent to have custody would likely cause the child actual serious psychological harm or harm in the near future as a result of the removal of the child from the substitute caregiver due to the existence of a strong, positive bond between the child and caregiver.

C. An order directing the termination of parental rights is a final appealable order.

D. The provisions of this section shall not apply to adoption proceedings and actions to terminate parental rights which do not involve a petition for deprived status of the child. Such proceedings and actions shall be governed by the Oklahoma Adoption Code.

Added by Laws 1968, c. 282, § 130, eff. Jan. 13, 1969. Amended by Laws 1975, c. 250, § 1, emerg. eff. June 2, 1975; Laws 1977, c. 259, § 17, eff. Oct. 1, 1977; Laws 1983, c. 291, § 1; Laws 1986, c. 243, § 1, emerg. eff. June 12, 1986; Laws 1987, c. 95, § 1, emerg. eff. May 18, 1987; Laws 1993, c. 253, § 4, emerg. eff. May 26, 1993; Laws 1993, c. 360, § 2, eff. Sept. 1, 1993; Laws 1994, c. 309, § 1, emerg. eff. June 7, 1994; Laws 1995, c. 352, § 65, eff. July 1, 1995.

Renumbered from § 1130 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1997, c. 389, § 8, eff. Nov. 1, 1997; Laws 1998, c. 5, § 6, emerg. eff. March 4, 1998; Laws 1998, c. 414, § 20, emerg. eff. June 11, 1998; Laws 2000, c. 374, § 28, eff. July 1, 2000; Laws 2001, c. 434, § 5, emerg. eff. June 8, 2001; Laws 2009, c. 233, § 76, emerg. eff. May 21, 2009. Renumbered from § 7006-1.1 of Title 10 by Laws 2009, c. 233, § 263, emerg. eff. May 21, 2009.

Amended by Laws 2013, c. 404, § 1, eff. Nov. 1, 2013; Laws 2014, c. 334, § 1, eff. Nov. 1, 2014; Laws 2015, c. 191, § 1, eff. Nov. 1, 2015.

NOTE: Laws 1993, c. 208, § 3 repealed by Laws 1993, c. 360, § 16, emerg. eff. June 10, 1993. Laws 1997, c. 366, § 56 repealed by Laws 1998, c. 5, § 29, emerg. eff. March 4, 1998.

§10A-1-4-905. Notice of hearing to terminate parental rights.

A. 1. Prior to a hearing on the petition or motion for termination of parental rights, notice of the date, time, and place of the hearing and a copy of the petition or motion to terminate parental rights shall be served upon the parent who is the subject of the termination proceeding by personal delivery, by certified mail, or by publication as provided for in Section 1-4-304 of this title.

2. The notice shall contain the following or substantially similar language: "FAILURE TO PERSONALLY APPEAR AT THIS HEARING CONSTITUTES CONSENT TO THE TERMINATION OF YOUR PARENTAL RIGHTS TO THIS CHILD OR THESE CHILDREN. IF YOU FAIL TO APPEAR ON THE DATE AND TIME SPECIFIED, YOU MAY LOSE ALL LEGAL RIGHTS AS A PARENT TO THE CHILD OR CHILDREN NAMED IN THE PETITION OR MOTION ATTACHED TO THIS NOTICE."

3. Notice shall be served upon the parent not less than fifteen (15) calendar days prior to the hearing.

4. Any actual notice of termination of parental rights shall state that the duty of the parent to support his or her minor child will not be terminated except for adoption as provided by paragraph 3 of subsection B of Section 1-4-906 of this title.

5. The failure of a parent who has been served with notice under this section to personally appear at the hearing shall constitute consent to the termination of parental rights by the parent given notice. When a parent who appears voluntarily or pursuant to notice is directed by the court to personally appear for a subsequent hearing on a specified date, time and location, the failure of that parent to personally appear, or to instruct his or her attorney to proceed in absentia at the trial, shall constitute consent by that parent to termination of his or her parental rights.

B. 1. The court shall have the power to vacate an order terminating parental rights if the parent whose parental rights were terminated pursuant to subsection A of this section files a motion to vacate the order within thirty (30) days after the order is filed with the court clerk.

2. Notice of the motion shall be given to all the parties and their attorneys and the court shall set the matter for hearing expeditiously.

3. The burden of proof is on the defaulting parent to show that he or she had no actual notice of the hearing, or due to unavoidable casualty or misfortune the parent was prevented from either contacting his or her attorney, if any, or from attending the hearing or trial.

4. If the motion to vacate the order terminating parental rights due to a failure to appear is found to have merit, the statutory consent shall be set aside and a new trial conducted.

Added by Laws 1968, c. 282, § 131, eff. Jan. 13, 1969. Amended by Laws 1977, c. 259, § 18, eff. Oct. 1, 1977; Laws 1978, c. 227, § 1; Laws 1985, c. 337, § 3, eff. Feb. 1, 1986; Laws 1986, c. 263, § 7, operative July 1, 1986; Laws 1995, c. 352, § 66, eff. July 1, 1995. Renumbered from § 1131 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1998, c. 421, § 30, emerg. eff. June 11, 1998; Laws 2009, c. 233, § 77, emerg. eff. May 21, 2009. Renumbered from § 7006-1.2 of Title 10 by Laws 2009, c. 233, § 264, emerg. eff. May 21, 2009.

§10A-1-4-906. Effect of termination of parental rights.

A. The termination of parental rights terminates the parent-child relationship, including:

1. The parent's right to the custody of the child;
2. The parent's right to visit the child;
3. The parent's right to control the child's training and education;
4. The parent's right to apply for guardianship of the child;
5. The necessity for the parent to consent to the adoption of the child;
6. The parent's right to the earnings of the child; and
7. The parent's right to inherit from or through the child.

Provided, that nothing herein shall in any way affect the right of the child to inherit from the parent.

B. 1. Except for adoptions as provided in paragraph 3 of this subsection, termination of parental rights shall not terminate the duty of either parent to support his or her minor child.

2. Any order terminating parental rights shall indicate that the duty of the parent to support his or her minor child will not be terminated unless the child is subsequently adopted as provided by paragraph 3 of this subsection.

3. Child support orders shall be entered by the court that terminates parental rights and shall remain in effect until the court of termination receives notice from the placing agency that a final decree of adoption has been entered and then issues an order terminating child support and dismissing the case.

C. The Department of Human Services shall not recommend a parent who has had his or her parental rights terminated to seek guardianship of a child in the custody of the Department.

Added by Laws 1968, c. 282, § 132, eff. Jan. 13, 1969. Amended by Laws 1994, c. 356, § 10, eff. Sept. 1, 1994; Laws 1995, c. 352, § 67, eff. July 1, 1995. Renumbered from § 1132 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 2009, c. 233, § 78, emerg. eff. May 21, 2009. Renumbered from § 7006-1.3 of Title 10 by Laws 2009, c. 233, § 265, emerg. eff. May 21, 2009. Amended by Laws 2019, c. 94, § 2, eff. Nov. 1, 2019.

§10A-1-4-907. Vesting authority to consent to adoption.

If the court terminates the rights of a parent and places the child with an individual or agency, the court may vest in such individual or agency authority to consent to the adoption of the child. Provided, that when the court places the child with the Department of Human Services, it shall vest the Department with authority to place the child and, upon notice to the court that an adoption petition has been filed concerning the child, vest the Department with authority to consent to the adoption of the child, and the jurisdiction of the committing court shall terminate upon a final decree of adoption.

Added by Laws 2009, c. 233, § 129, emerg. eff. May 21, 2009.

§10A-1-4-908. Failure of parental rights to be terminated at trial - Permanency hearing - Continuing jurisdiction.

A. When parental rights are not terminated as a result of a trial, the court shall set the matter for a permanency hearing within thirty (30) days.

B. The failure of parental rights to be terminated at trial shall not deprive the court of its continuing jurisdiction over the child, nor shall it require reunification of the child with the parent if the child has been adjudicated to be deprived.

Added by Laws 2009, c. 233, § 130, emerg. eff. May 21, 2009.

§10A-1-4-909. Application by child to reinstate parental rights.

A. A child may, by application, request the court to reinstate the previously terminated parental rights of his or her parent under the following circumstances:

1. The child was previously found to be a deprived child;
2. The parent's rights were terminated in a proceeding under this title;
3. At least three (3) years have passed since the final order of termination of parental rights and:
  - a. the child has not achieved his or her permanency plan,
  - b. a permanency plan of adoption has failed, or
  - c. a permanency plan of guardianship has failed; and
4. The child is at least fourteen (14) years old at the time the application is filed.

B. A child shall be represented during the proceeding and shall be provided independent counsel.

C. The application shall be signed by the child as well as the child's attorney.

D. If, after a preliminary hearing to consider the parent's apparent fitness and interest in reinstatement of parental rights, the court finds by a preponderance of the evidence that the best interests of the child may be served by reinstatement of parental rights, the court shall order that a hearing on the merits of the motion be held.

E. The court shall cause prior notice to be given to the Department of Human Services, the child's attorney, and the child. The court shall also order the Department or the child's attorney to give prior notice of any hearing to:

1. The former parent of the child whose parental rights are the subject of the application;
2. The current foster parent or relative guardian of the child;
3. The guardian ad litem of the child, if any; and
4. The child's tribe, if applicable.

F. The application of the child shall be dismissed if the parent cannot be located.

G. The court shall conditionally grant the application if it finds by clear and convincing evidence that the child has not and is not likely to imminently achieve his or her permanency plan and that reinstatement of parental rights is in the child's best interest. In determining whether reinstatement is in the child's best interest, the court shall consider, but is not limited to, the following:

1. Whether the parent whose rights are to be reinstated is a fit parent and has remedied the conditions as provided in the record of the prior termination proceedings and prior termination order;

2. The age and maturity of the child, and the ability of the child to express his or her preference;

3. Whether the reinstatement of parental rights will present a risk to the health, safety, or welfare of the child; and

4. Other material changes in circumstances, if any, that may have occurred which warrant the granting of the application.

H. In determining whether the child has or has not achieved his or her permanency plan, the Department shall provide the court, and the court shall review, information related to any efforts to achieve the permanency plan including efforts to achieve adoption or a permanent guardianship.

I. 1. If the court conditionally grants the application under subsection G of this section, the case shall be continued for six (6) months and a temporary order of reinstatement of parental rights entered. During this period, the child shall be placed in the custody of the parent. The Department shall develop a permanency plan for the child reflecting the plan to be reunification and shall provide or ensure that transition services are provided to the family as appropriate.

2. If the child must be removed from the parent due to abuse or neglect allegations prior to the expiration of the conditional six-month period, the court shall dismiss the application for reinstatement of parental rights if the court finds the allegations have been proven by a preponderance of the evidence.

J. The court shall hold a hearing after the child has been placed with the parent for six (6) months. If the placement with the parent has been successful, the court shall enter a final order of reinstatement of parental rights, which shall restore all rights, powers, privileges, immunities, duties, and obligations of the parent to the child, including those relating to custody, control, and support of the child. The court shall close the deprived action and direct the court clerk's office to provide a certified copy of the final order of reinstatement of parental rights to the parent at no cost.

K. A proceeding to reinstate parental rights is a separate action from the termination of parental rights proceeding and does not vacate the original termination of parental rights. An order granted under this section reinstates the parental rights to the child and acknowledges that the conditions of the parent and child have changed since the time of the termination of parental rights and that reunification is now appropriate.

L. This section is retroactive and shall apply to:

1. Any child who is under the jurisdiction of the district court as a deprived child at the time of the hearing to reinstate parental rights regardless of the date when parental rights were terminated;

2. The sibling group of a child when, at the discretion of the court, parental rights to one child of the sibling group have been reinstated; and

3. The child of a failed permanency plan of adoption or guardianship when parental rights of the parents of the child were terminated for three (3) or more years at the time of the application of the child to reinstate parental rights.

M. The district attorney, the Department, and its employees are not liable for civil damages resulting from any act or omission in providing services under this section unless the act or omission constitutes gross negligence. This section does not create any duty and shall not be construed to create a duty where none exists. This section does not create a cause of action against the district attorney, the Department, or its employees concerning the original order of termination of parental rights.

Added by Laws 2009, c. 233, § 131, emerg. eff. May 21, 2009. Amended by Laws 2019, c. 188, § 2, eff. Nov. 1, 2019.

§10A-1-5-101. Appeal of order or decree.

A. Any interested party aggrieved by any order or decree may appeal to the Supreme Court pursuant to Section 1-5-103 of this title and the rules of the Supreme Court of this state.

B. The pendency of an appeal thus taken shall not suspend the order of the district court regarding a child, nor shall it remove the child from the custody of that court or of the person, institution or agency to whose care such child has been committed, unless the Supreme Court shall so order, except as provided in Section 1-4-801 of this title. The pendency of an appeal from an order of adjudication shall not prevent the district court from holding a dispositional hearing unless the appellate court shall so order.

Added by Laws 1968, c. 282, § 123, eff. Jan. 13, 1969. Amended by Laws 1975, c. 192, § 1, emerg. eff. May 23, 1975; Laws 1977, c. 79, § 4; Laws 1995, c. 352, § 35, eff. July 1, 1995. Renumbered from § 1123 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1996, c. 200, § 7, eff. Nov. 1, 1996; Laws 1999, c. 396, § 8, emerg. eff. June 10, 1999; Laws 2006, c. 205, § 5, eff. Nov. 1, 2006; Laws 2007, c. 268, § 2, eff. Nov. 1, 2007; Laws 2009, c. 233, § 47, emerg. eff. May 21, 2009. Renumbered from § 7003-6.2 of Title 10 by Laws 2009, c. 233, § 266, emerg. eff. May 21, 2009.

§10A-1-5-102. Initial of child's surname required in court opinions.

In opinions of the appellate courts of this state in proceedings including, but not limited to, deprived, adoption, paternity proceedings and other proceedings under this title, the initial of the child's surname shall be used rather than the name of the child.

Added by Laws 1977, c. 259, § 14, eff. Oct. 1, 1977. Amended by Laws 1995, c. 352, § 36, eff. July 1, 1995. Renumbered from § 1123.1 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1996, c. 247, § 6, eff. July 1, 1996; Laws 2009, c. 233, § 49, emerg. eff. May 21, 2009. Renumbered from § 7003-6.3 of Title 10 by Laws 2009, c. 233, § 267, emerg. eff. May 21, 2009.

§10A-1-5-103. Time for filing petition - Briefing schedule - Priority basis expediting of adjudication.

A. All appeals of cases involving deprived or allegedly deprived children, including termination of parental rights, shall be initiated by filing a petition in error in the Supreme Court within thirty (30) days of the order appealed from. The record on appeal shall be completed within sixty (60) days from the date of the order.

B. The briefing schedule is established as follows:

1. Appellant's brief in chief shall be filed twenty (20) days after the trial court clerk notifies all parties that the record is complete and such notice has been filed in the office of the Clerk of the Supreme Court;

2. Appellee's answer brief shall be filed fifteen (15) days after the appellant's brief in chief is filed; and

3. Appellant's reply brief may be filed within ten (10) days after the appellee's answer brief is filed.

C. 1. Adjudication of the appeals described in this section shall be expedited by the Supreme Court and a decision shall be rendered on a priority basis in all cases.

2. The term "priority basis" as used in this section means that a decision shall be filed within six (6) months from the date the briefing is completed.

Added by Laws 1981, c. 289, § 8, eff. Oct. 1, 1981. Amended by Laws 1995, c. 352, § 37, eff. July 1, 1995. Renumbered from § 1123.2 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1996, c. 200, § 9, eff. Nov. 1, 1996; Laws 2009, c. 233, § 50, emerg. eff. May 21, 2009. Renumbered from § 7003-6.4 of Title 10 by Laws 2009, c. 233, § 268, emerg. eff. May 21, 2009.

§10A-1-6-101. Court to make and keep records - Definitions.

A. The court shall make and keep records of all cases brought before it. The court may devise and cause to be printed forms for records and such other papers as may be required.

B. As used in the Oklahoma Children's Code:

1. "Records" shall include but not be limited to written or printed documents, papers, logs, reports, files, case notes, films, photographs, audio or visual tape recordings, and shall include information entered into and maintained in an automated or computerized information system;

2. "Juvenile court record" means all records, other than adoption records, including but not limited to agency, law enforcement, and district attorney's records, filed with the court that are related to a child who is the subject of a court proceeding pursuant to the provisions of the Oklahoma Children's Code;

3. "Agency record" means records prepared, obtained, or maintained by a public or private agency with regard to a child who is or has been under its care, custody, or supervision or to a family member or other person living in the home of such child and shall include but not be limited to:

- a. any study, plan, recommendation, assessment, or report made or authorized to be made by such agency for the purpose of determining or describing the history, diagnosis, custody, condition, care, or treatment of such child, or
- b. safety analysis records that have been prepared and obtained in response to a report of alleged child abuse or neglect and include assessment reports and reports to the district attorney with all supporting documentation attached and any addendums;

4. "District attorney's records" means any records prepared or obtained by an office of a district attorney relating to juvenile cases and any records prepared or obtained for the prosecution of crimes against children that constitute a legal or social record of a child as defined by this section;

5. "Law enforcement records" means any contact, incident or similar reports, arrest records, disposition records, detention records, fingerprints, or photographs related to a child and shall include but not be limited to reports of investigations or inquiries conducted by a law enforcement agency to determine whether a child is or may be subject to the provisions of this title as a deprived child, a child in need of supervision, or a minor in need of treatment. Law enforcement records pertaining to juveniles shall be maintained separately from records pertaining to adults;

6. "Nondirectory education records" means any records maintained by a public or private school, including a technology center school, regarding a child who is or has been a student at the school which are categorized as private or confidential records pursuant to federal and state law;

7. "Legal record" means any petition, docket, motion, finding, order, judgment, pleading, paper, or other document, other than social records, filed with the court;

8. "Social record" means family social histories, medical reports, psychological and psychiatric evaluations or assessments, educational records, or home studies, even if attached to court reports prepared by the Department. "Social record" shall not

include service provider progress reports or critical incident reports as required pursuant to Section 1-4-807 of this title; and

9. "Participating agency" means any public or private agency that has entered into a contract or an interagency agreement under the Interlocal Cooperation Act in accordance with the rules and guidelines adopted pursuant to Section 620.6 of this title for the purpose of accessing and sharing information necessary for the care, treatment, and supervision of children and youth.

Added by Laws 1968, c. 282, § 125, eff. Jan. 13, 1969. Amended by Laws 1989, c. 363, § 10, eff. Nov. 1, 1989; Laws 1991, c. 296, § 9, eff. Jan. 1, 1992; Laws 1995, c. 352, § 57, eff. July 1, 1995.

Renumbered from § 1125 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 2001, c. 33, § 9, eff. July 1, 2001; Laws 2009, c. 233, § 71, emerg. eff. May 21, 2009. Renumbered from § 7005-1.1 of Title 10 by Laws 2009, c. 233, § 269, emerg. eff. May 21, 2009. Amended by Laws 2011, c. 244, § 4, eff. Nov. 1, 2011.

§10A-1-6-102. Confidential records.

A. Except as provided by this section and except as otherwise specifically provided by state and federal laws, the following records are confidential and shall not be open to the general public or inspected or their contents disclosed:

1. Juvenile court records;
2. Agency records;
3. District attorney's records;
4. Court Appointed Special Advocate records pertaining to a child welfare case;
5. Law enforcement records;
6. Nondirectory education records; and
7. Social records.

B. The limitation of subsection A of this section shall not apply to statistical information and other abstract information obtained pursuant to the provisions of the Oklahoma Children's Code.

C. Except as authorized by Section 620.6 of Title 10 of the Oklahoma Statutes and this chapter and except as otherwise specifically provided by state and federal laws pertaining to education records, medical records, drug or alcohol treatment records, law enforcement, or social service records, the records listed in subsection A of this section shall be confidential and shall be inspected, released, disclosed, corrected or expunged only pursuant to an order of the court. A subpoena or subpoena duces tecum purporting to compel testimony or disclosure of such information or record shall be invalid.

D. 1. In a proceeding where the child custody or visitation is at issue, the safety analysis records of the Department shall be produced to the court when a parent, legal guardian, or child who is

the subject of such record obtains a court order directing the production of the records.

2. The person or party seeking the records shall proceed by filing a motion for production of safety analysis records which contains the following averments:

- a. the movant is a parent, legal guardian, or child who is the subject of the safety analysis records,
- b. child custody or visitation is at issue,
- c. that upon receipt from the court, the safety analysis records shall be kept confidential and disclosed only to the movant, the attorneys of the movant, those persons employed by or acting on behalf of the movant and the attorneys of the movant whose aid is necessary to the prosecution or defense of the child custody or visitation issue, and
- d. that a copy of the motion is being provided to the parties, the attorney of the child, if any, and the guardian ad litem, if any.

3. Upon filing the motion for production of safety analysis records, the court may, in its discretion, enter an ex parte order for production of safety analysis records that shall be substantially in the following form:

CONFIDENTIAL RECORDS DISCLOSURE AND PROTECTIVE ORDER

NOW on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the court finds that child custody or visitation is at issue in the above styled and numbered proceeding and the disclosure of the safety analysis records of the Oklahoma Department of Human Services pursuant to Section 1-6-102 of this title is necessary and relevant to the court's determination of the child's best interests. The court therefore orders as follows:

- a. The Oklahoma Department of Human Services ("Department" or "DHS") shall produce a copy of its safety analysis records to this court on or before \_\_\_\_ day of \_\_\_\_\_, 20\_\_.
- b. The Department shall be permitted to redact or omit information in its safety analysis records which may identify the reporter of alleged child abuse or neglect.
- c. All information contained in the safety analysis records of the Department is confidential under Oklahoma law and shall be disclosed only to the parties, the attorneys of the parties, and those persons employed by or acting on behalf of the parties and the attorneys of the parties whose aid is necessary to the prosecution or defense of the child custody or visitation issue.

- d. No confidential information whether contained in pleadings, briefs, discovery, or other documents shall be filed except under seal with the legend "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION AND IS SUBJECT TO A PROTECTIVE ORDER OF THE COURT".
- e. No person or entity shall utilize any information contained in the safety analysis records for any purpose other than the prosecution or defense of the child custody or visitation issues in this case.
- f. The release by counsel or any other person for any reason of identifiers such as social security or tax ID numbers that may be contained in the Department records and which belong to any person or entity is strictly prohibited.
- g. Any violation of this order shall be subject to prosecution for contempt of court.

IT IS SO ORDERED this \_\_\_ day of \_\_\_\_\_, 20\_\_.

4. This subsection shall not apply to:

- a. deprived child proceedings brought pursuant to the Oklahoma Children's Code,
- b. discovery of safety analysis records by a person or entity who is not the subject of those records, or
- c. discovery of safety analysis records in criminal, other civil, or administrative proceedings.

5. The party who has obtained a court order for the safety analysis records of the Department shall provide the Department with the names and other identifying information concerning the subjects of the safety analysis records.

6. Upon receipt of a court order to produce its safety analysis records, the Department shall be given a minimum of five (5) judicial days to deliver the records to the court.

7. The safety analysis records provided by the Department to the court pursuant to this subsection shall not be subject to judicial review and shall be released by the court only to the litigants in the case under a protective order.

8. A court order entered pursuant to this subsection which purports to require the Department to produce all agency records shall be deemed to require only the production of the safety analysis records of the Department.

9. An employee of the Department shall not be compelled to testify about the safety analysis records except upon a court order directing such testimony. Any subpoena or subpoena duces tecum purporting to compel disclosure of safety analysis records or testimony concerning such records without a court order shall be invalid.

10. Except as provided by this subsection or other law, confidential records may be inspected, released, disclosed,

corrected, or expunged only by the procedure set forth in subsection E of this section.

E. When confidential records may be relevant in a criminal, civil, or administrative proceeding, an order of the court authorizing the inspection, release, disclosure, correction, or expungement of confidential records shall be entered by the court only after a judicial review of the records and a determination of necessity pursuant to the following procedure:

1. A petition or motion shall be filed with the court describing with specificity the confidential records being sought and setting forth in detail the compelling reason why the inspection, release, disclosure, correction, or expungement of confidential records should be ordered by the court. A petition or motion that does not contain the required specificity or detail may be subject to dismissal by the court;

2. Upon the filing of the petition or motion, the court shall set a date for a hearing and shall require notice of not less than twenty (20) days to the agency or person holding the records and the person who is the subject of the record if such person is eighteen (18) years of age or older or to the parents of a child less than eighteen (18) years of age who is the subject of the record, to the attorneys, if any, of such person, child or parents and any other interested party as ordered by the court. The court may also enter an ex parte order compelling the person or agency holding the records to either produce the records to the court on or before the date set for hearing or file an objection or appear for the hearing. The court may shorten the time allowed for notice due to exigent circumstances;

3. At the hearing, should the court find that a compelling reason does not exist for the confidential records to be judicially reviewed, the matter shall be dismissed; otherwise, the court shall order that the records be produced for a judicial review. The hearing may be closed at the discretion of the court; and

4. The judicial review of the records shall include a determination, with due regard for the confidentiality of the records and the privacy of persons identified in the records, as to whether an order should be entered authorizing the inspection, release, disclosure, correction, or expungement of the records based upon the need for the protection of a legitimate public or private interest.

F. The court may, for good cause shown, prohibit the release of such confidential records or testimony or authorize a release of the confidential information or testimony upon such conditions as the court deems necessary and appropriate, subject to the provisions of this section.

G. Any public or private agency, entity, or professional person required to produce confidential records pursuant to this section may require payment of fees from the party seeking the records prior to

any records being produced, including a research fee not exceeding Twenty Dollars (\$20.00) per hour and a copy fee not to exceed fifty cents (\$0.50) per page and Five Dollars (\$5.00) per copy of each video tape or disk; provided, the court may waive such costs in a criminal action based upon indigence of a defendant. The Department shall not be permitted to assess fees for records produced pursuant to subsection D of this section or in the provision of records to the Office of Juvenile Affairs pursuant to paragraph 13 of subsection H of this section.

H. Nothing in Section 620.6 of Title 10 of the Oklahoma Statutes and this chapter shall be construed as:

1. Authorizing the inspection of records or the disclosure of information contained in records relating to the provision of benefits or services funded, in whole or in part, with federal funds, except in accord with federal statutes and regulations governing the receipt or use of such funds;

2. Authorizing the disclosure of papers, records, books or other information relating to the adoption of a child required to be kept confidential. The disclosure of such information shall be governed by the provisions of the Oklahoma Adoption Code;

3. Abrogating any privilege, including the attorney-client privilege, or affecting any limitation on such privilege found in any other statutes;

4. Limiting or otherwise affecting access of parties to a deprived proceeding to records filed with or submitted to the court;

5. Limiting or otherwise affecting access of agencies to information subject to disclosure, review, or inspection by contract or as a condition for the receipt of public funds or participation in any program administered by the agency;

6. Prohibiting the Department of Human Services from summarizing the outcome of an investigation to the person who reported a known or suspected instance of child abuse or neglect or to any person providing services to a child who is or is alleged to be a victim of child abuse;

7. Authorizing the disclosure of information which identifies any person who has reported an allegation of known or suspected child abuse or neglect unless such disclosure is specifically ordered by the court;

8. Authorizing the disclosure of a recording or a transcription of a hotline referral which identifies any person who has reported an allegation of known or suspected child abuse or neglect, unless the disclosure is specifically ordered by the court;

9. Prohibiting the Department of Human Services from providing a summary of allegations and findings of an investigation involving a child care facility that does not disclose identities but that permits parents to evaluate the facility;

10. Prohibiting the disclosure of confidential information to any educational institution, facility, or educator to the extent necessary to enable the educator to better provide educational services and activities for a child and provide for the safety of students;

11. Prohibiting the Department from obtaining, without a court order, nondirectory education records pertaining to a child in the legal custody of the Department;

12. Prohibiting the Department from providing records to a federally recognized Indian tribe for any individual who has applied for foster care placement, adoptive placement, or guardianship placement through the tribe; provided, that the tribe shall be required to maintain the confidentiality of the records; or

13. Prohibiting the Department from providing records to the Office of Juvenile Affairs for any individual who has applied for foster care.

Added by Laws 1991, c. 296, § 10, eff. Jan. 1, 1992. Amended by Laws 1993, c. 306, § 1, eff. Sept. 1, 1993; Laws 1995, c. 352, § 58, eff. July 1, 1995. Renumbered from § 1125.1 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1996, c. 297, § 22, emerg. eff. June 10, 1996; Laws 1997, c. 350, § 5, eff. July 1, 1997; Laws 1998, c. 416, § 7, eff. Nov. 1, 1998; Laws 1999, c. 81, § 1, eff. Nov. 1, 1999; Laws 1999, c. 396, § 9, emerg. eff. June 10, 1999; Laws 2009, c. 233, § 72, emerg. eff. May 21, 2009. Renumbered from § 7005-1.2 of Title 10 by Laws 2009, c. 233, § 270, emerg. eff. May 21, 2009. Amended by Laws 2012, c. 343, § 1, eff. Nov. 1, 2012; Laws 2013, c. 374, § 2, eff. Nov. 1, 2013; Laws 2014, c. 4, § 1, emerg. eff. April 2, 2014; Laws 2014, c. 256, § 1, eff. Nov. 1, 2014.

NOTE: Editorially renumbered from § 1-6-102 of Title 10 to provide consistency in numbering.

NOTE: Laws 1998, c. 415, § 2 repealed by Laws 1999, c. 1, § 45, emerg. eff. Feb. 24, 1999. Laws 1999, c. 1, § 3 repealed by Laws 1999, c. 396, § 31, emerg. eff. June 10, 1999 and by Laws 1999, c. 426, § 4, eff. Nov. 1, 1999. Laws 2013, c. 387, § 1 repealed by Laws 2014, c. 4, § 2, emerg. eff. April 2, 2014.

§10A-1-6-103. Inspection of records without court order.

A. Juvenile court records and Department of Human Services agency records pertaining to a child may be inspected, and their contents shall be disclosed, without a court order to the following persons upon showing of proper credentials and pursuant to their lawful duties:

1. The court having the child currently before it in any proceeding pursuant to this title, any district court or tribal court to which such proceedings may be transferred, employees and officers of the court in the performance of their duties, including but not

limited to guardians ad litem appointed by the court, and court-appointed special advocates;

2. A district attorney, United States Attorney, or Attorney General of this or another state and the employees of such offices in the course of their official duties pursuant to this title or the prosecution of crimes against children, or upon their request in their official capacity as advisor in a grand jury proceeding;

3. The attorney representing a child who is the subject of a proceeding pursuant to the provisions of this title or other proceeding where child custody or visitation is at issue;

4. Employees of juvenile bureaus in the course of their official duties pursuant to this title, and employees of the Department of Human Services in the course of their official duties;

5. Employees of a law enforcement agency of this or another state or military enclave and employees of a child protective service of another state or military enclave in the course of their official duties pertaining to investigations of a report of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody;

6. The Oklahoma Commission on Children and Youth as provided by Sections 601.2 and 601.6 of Title 10 of the Oklahoma Statutes;

7. The Office of Juvenile Affairs;

8. A federally recognized Indian tribe in which the child who is the subject of the record is a member or is eligible to become a member of the tribe and is the biological child of a member of an Indian tribe pursuant to the provisions of the Federal Indian Child Welfare Act and the Oklahoma Indian Child Welfare Act; provided such Indian tribe, in the course of its official duties, is:

- a. investigating a report of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody,
- b. providing services to or for the benefit of a child including, but not limited to, protective, emergency, social and medical services, or
- c. the tribe, the tribal court or the tribal child welfare program has asserted jurisdiction or intervened in any case in which the child is the subject of the proceedings or is a party to the proceedings pursuant to the authority provided in the Oklahoma Indian Child Welfare Act.

The records that are to be provided to Indian tribes under this subsection shall include all case records, reports, and documents as defined in Section 1-6-101 of this title;

9. The Governor or to any person the Governor designates, in writing;

10. Any federal official of the United States Department of Health and Human Services;

11. Any member of the Legislature approved in writing by the Speaker of the House of Representatives or the President Pro Tempore of the Senate;

12. A foster parent, with regard to records concerning the social, medical, psychological, or educational needs of a child currently placed with that foster parent or of a child being considered for placement with that foster parent;

13. An employee of any state or federal corrections or law enforcement agency in the performance of the official duties of the employee concerning presentence investigations or supervision of a parent of an alleged or adjudicated deprived child, or the legal guardian, custodian, or any other adult member of the child's home who is responsible for the health, safety, or welfare of the child;

14. An employee of a state agency of this or another state in the performance of the official duties of the employee concerning the establishment of paternity or the establishment or enforcement of a child support order or other entitlement for the benefit of a child; provided, disclosure shall be limited to information directly related to the purpose of such disclosure;

15. Any member of a city-county Health Department Fetal Infant Mortality Review (FIMR) in the performance of the official duties of the member concerning investigations of fetal and infant mortalities; provided, disclosure shall be limited to information directly related to the purpose of such disclosure;

16. Any designated federal authorities at the federal military installation where a service member is assigned, when the child is a member of an active duty military family, as provided by paragraph 4 of subsection A of Section 1-2-102 of this title; and

17. Any member of the Child Welfare Review Committee for the Death and Near Death of Children With Disabilities as established by Section 1-10-103 of this title.

B. In addition to the persons listed in subsection A of this section, juvenile court records may be inspected, and their contents shall be disclosed, without a court order to the following persons upon showing of proper credentials and pursuant to their lawful duties:

1. Employees of court-appointed special advocate programs, as defined in Section 1-1-105 of this title, in the course of their official duties pertaining to recruiting, screening, training, assigning cases, supervising, and supporting volunteers in their roles as guardian ad litem pursuant to Section 1-4-306 of this title;

2. Members of postadjudication review boards established pursuant to the provisions of Section 1116.2 of Title 10 of the Oklahoma Statutes, the Child Death Review Board, and multidisciplinary personnel. In addition to juvenile court records,

members of such postadjudication review boards may inspect, without a court order, information that includes, but is not limited to:

- a. psychological and medical records,
- b. placement history and information, including the names and addresses of foster parents,
- c. family assessments,
- d. treatment or service plans, and
- e. school records;

3. The Department of Human Services or other public or private agency or individual having court-ordered custody or physical custody pursuant to Department placement of the child, or conducting a child abuse or neglect investigation of the child who is the subject of the record. In addition to juvenile court records, employees of the Department may inspect, without a court order and upon a showing of proper credentials and pursuant to their lawful duties, information that includes, but is not limited to:

- a. psychological and medical records, and
- b. nondirectory education records;

4. The child who is the subject of the record and the parents, legal guardian, custodian, or foster parent of such child; and

5. A person authorized by the court to conduct bona fide research, provided such research may not publish the names or identities of parents, children, or other persons contained in the records.

C. In addition to the persons and entities named in subsection A of this section, Department of Human Services agency records may be inspected, and their contents shall be disclosed, without a court order to the following persons upon showing of proper credentials and pursuant to their lawful duties:

1. Postadjudicatory review boards, court-appointed special advocates, and members of the Child Death Review Board;

2. Any district court which has ordered a home study by the Department in an action for divorce, annulment, custody of a child, or appointment of a legal guardian of a child, or any subsequent proceeding in such actions; provided, however, the Department may limit disclosure in the home study to summaries or to information directly related to the purpose of the disclosure;

3. Members of multidisciplinary teams or multidisciplinary personnel designated by the Department, investigating a report of known or suspected child abuse or neglect or providing services to a child or family which is the subject of the report;

4. A physician who has before him or her a child whom the physician reasonably suspects may be abused or neglected or any health care or mental health professionals involved in the evaluation or treatment of the child or the parents, legal guardian, foster parent, custodian, or other family members of the child;

5. Any public or private agency or person authorized by the Department to diagnose, or provide care, treatment, supervision, or other services to a child who is the subject of a report or record of child abuse or neglect; provided, the Department may limit such disclosure to summaries or to information directly necessary for the purpose of such disclosure;

6. Any person or agency for research purposes, if all of the following conditions are met:

- a. the person or agency conducting the research is employed by the State of Oklahoma or is under contract with this state and is authorized by the Department to conduct the research, and
- b. the person or agency conducting the research ensures that all documents containing identifying information are maintained in secure locations and access to the documents by unauthorized persons is prohibited; that no identifying information is included in documents generated from the research conducted; and that all identifying information is deleted from documents used in the research when the research is completed;

7. The Oklahoma Health Care Authority; and

8. A medical examiner when such person is determining the cause of death of a child.

D. In accordance with the rules promulgated for such purpose pursuant to Section 620.6 of Title 10 of the Oklahoma Statutes, records listed in subsection A of Section 1-6-102 of this title may be inspected and their contents disclosed without a court order to participating agencies.

E. The court may disclose to an employee of an out-of-state entity, licensed to perform adoption home studies in that state, whether the prospective adoptive parent has had parental rights to a child terminated in Oklahoma or whether the prospective adoptive parent has relinquished parental rights to a child in Oklahoma.

F. Nothing in this section shall be construed as prohibiting the Department from disclosing such confidential information as may be necessary to secure appropriate care, treatment, protection or supervision of a child alleged to be abused or neglected.

Added by Laws 1991, c. 296, § 11, eff. Jan. 1, 1992. Amended by Laws 1993, c. 78, § 1, emerg. eff. April 18, 1993; Laws 1993, c. 306, § 2, eff. Sept. 1, 1993; Laws 1995, c. 352, § 59, eff. July 1, 1995.

Renumbered from § 1125.2 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1996, c. 200, § 18, eff. Nov. 1, 1996; Laws 1997, c. 386, § 20, emerg. eff. June 10, 1997; Laws 1998, c. 416, § 8, eff. Nov. 1, 1998; Laws 2000, c. 374, § 26, eff. July 1, 2000; Laws 2005, c. 153, § 1, eff. Nov. 1, 2005; Laws 2009, c. 233, § 73, emerg. eff. May 21, 2009. Renumbered from § 7005-1.3 of Title 10 by Laws 2009, c. 233, § 271, emerg. eff. May 21, 2009. Amended by

Laws 2010, c. 278, § 14, eff. Nov. 1, 2010; Laws 2011, c. 371, § 8, eff. Nov. 1, 2011; Laws 2014, c. 256, § 2, eff. Nov. 1, 2014; Laws 2014, c. 355, § 4, eff. Nov. 1, 2014; Laws 2016, c. 130, § 3, eff. Nov. 1, 2016; Laws 2017, c. 42, § 3.

NOTE: Laws 2016, c. 137, § 2 repealed by Laws 2017, c. 42, § 4.

§10A-1-6-104. Redaction of other children's information.

Where more than one child is included in a juvenile court record, the court may order the names and information of the other children redacted as a condition of granting access or copies of the record. Alternatively, the court may prohibit disclosure of the record where redaction is not practical or possible.

Added by Laws 2009, c. 233, § 132, emerg. eff. May 21, 2009.

§10A-1-6-105. Disclosure of certain information in cases of death or near-death of a child

A. When used in this section, unless the context otherwise requires:

1. "Abuse" means harm or threatened harm or failure to protect from harm or threatened harm to the health, safety, or welfare of a child by a person responsible for the child, including but not limited to nonaccidental physical or mental injury, sexual abuse, or sexual exploitation. Provided, however, that nothing contained in this act shall prohibit any parent from using ordinary force as a means of discipline including, but not limited to, spanking, switching, or paddling;

2. "Identifying information" means information that identifies an individual, including the individual's:

- a. name, address, date of birth, occupation, place of employment and telephone number,
- b. employer identification number, mother's maiden name, Social Security number, or any identification number issued by a governmental entity, or
- c. unique biometric data, including the fingerprints, voice print, or retina or iris image of the individual;

3. "Near death" means a child is in serious or critical condition as verified by a physician, a registered nurse or other licensed health care provider. Verification of medical condition of a child may be given in person or by telephone, mail, electronic mail or facsimile;

4. "Neglect" means:

- a. the failure or omission to provide any of the following:
  - (1) adequate nurturance and affection, food, clothing, shelter, sanitation, hygiene, or appropriate education,
  - (2) medical, dental, or behavioral health care,

- (3) supervision or appropriate caretakers, or
  - (4) special care made necessary by the physical or mental condition of the child,
- b. the failure or omission to protect a child from exposure to any of the following:
- (1) the use, possession, sale, or manufacture of illegal drugs,
  - (2) illegal activities, or
  - (3) sexual acts or materials that are not age-appropriate, or
- c. abandonment.

Nothing in this paragraph shall be construed to mean a child is abused or neglected for the sole reason the parent, legal guardian or person having custody or control of a child, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the tenets and practice of a recognized church or religious denomination, for the treatment or cure of disease or remedial care of such child. Nothing contained in this paragraph shall prevent a court from immediately assuming custody of a child, pursuant to the Oklahoma Children's Code, and ordering whatever action may be necessary, including medical treatment, to protect the child's health or welfare; and

5. "Person responsible for a child" means "person responsible for a child's health, safety or welfare" as provided in Section 1-1-105 of this title but shall also include any person who has voluntarily accepted the duty of supervising a child or who has been directed or authorized to supervise a child by the person responsible for the child's health, safety or welfare.

B. Department of Human Services information shall be maintained by the Department as required by federal law as a condition of the allocation of federal monies to the state. All exceptions for the public release of Department information shall be construed as openly as possible consistent with federal law.

C. If the Department has reasonable cause to suspect that a child death or near death is the result of abuse or neglect, the Department shall notify the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives or their designees of the initial investigative findings of the child protective services review. Notice shall be communicated securely no later than twenty-four (24) hours after determination of the reasonable suspicion.

D. Once the Department has reasonable cause to suspect that a child death or near death is the result of abuse or neglect, the Department shall, upon request, release to the public the following information:

- 1. The age and sex of the child;
- 2. The date of death or near-death incident;

3. Whether the child was in the custody of the Department at the time of the child's death or near death;

4. Whether the child resided with the child's parent, guardian, or person responsible for the care of the child at the time of the child's death or near death; and

5. Whether the child was under the supervision of the child's parent, guardian or person responsible for the child at the time of the death or near death of the child.

E. If, after a child abuse or neglect investigation is completed, the Department determines a child's death or near death was the result of abuse or neglect, the Department shall, upon request, release to the public the following information:

1. The information described in subsection D of this section;

2. The name of the abused or neglected child; provided, that the name shall not be disclosed in a case of a near death unless the name has previously been disclosed;

3. The name of the offender if due process has been satisfied or if the offender has been arrested and charged with a crime associated with the death or near death of the child;

4. In cases in which the death or near death of the child occurred while the child was living with the child's parent, guardian, or person responsible for the care of the child:

a. the circumstances of the death or near death of the child,

b. a summary of the child's involvement with the Department while the child was living with the parent, guardian, or person responsible for the care of the child,

c. the disposition of any report created as a result of the child's involvement with the Department while the child was living with the parent, guardian, or person responsible for the care of the child,

d. a description of the services, if any, that were provided by the Department as a result of the child's involvement with the Department while the child was living with the parent, guardian, or person responsible for the care of the child,

e. the results of any risk or safety assessment completed by the Department relating to the child,

f. the date each report was assessed and completed,

g. whether the Department confirmed abuse or neglect,

h. whether any reports were referred to the district attorney and the date of the referrals,

i. the dates of any judicial proceedings prior to the death or near death of the child,

j. a summary of the recommendations submitted by each participant at the judicial proceedings including

- recommendations made at the hearing as they relate to custody or placement of the child,
- k. the rulings of the court,
  - l. specific recommendations made and services rendered by the Department described in any progress reports of a pending case submitted to the court,
  - m. a summary of the status of the child's case at the time of the death or near death, including, without limitation, whether the child's case was closed by the Department before the death or near death,
  - n. similar information for any other investigations concerning that child, or other children while living in the same household,
  - o. a summary of statutory and policy violations, including notice of any personnel actions taken by the Department, and
  - p. recommendations for policy changes or practice improvements based upon the interactions between the Department, the child who died or nearly died and the person responsible for the care of the child; and

5. In cases in which the death or near death of the child occurred while the child was in the custody of the Department and the person responsible for the supervision of the child was the suspected perpetrator, the following information:

- a. the circumstances of the death or near death of the child,
- b. information regarding the certification of the person with whom the child was residing at the time of death or near death,
- c. a summary of any previous reports of abuse or neglect investigated by the Department relating to the person responsible for the supervision of the child, including the disposition of any investigation resulting from a report,
- d. any policy violations, including notice of any action taken by the Department regarding a violation,
- e. records of any training completed by the person responsible for the supervision of the child,
- f. similar information for any other investigations concerning that child, or other children while living in the same household,
- g. a summary of licensing actions taken by the Department, and
- h. recommendations for policy changes or practice improvements based upon the interactions between the Department and the child who died or nearly died.

F. If the Department is unable to release the information required by subsection E of this section before forty-five (45) days after receiving a report of the death or near death of a child, the Department shall notify the person requesting the information of the delay and provide the reason for the delay and the expected date the Department will release the report.

G. At any time subsequent to seven (7) days, but no more than forty-five (45) days, of the date the person responsible for the child has been criminally charged, the district attorney, the district court clerk, and the judge having jurisdiction over the case, upon request, shall release certain information to the public as follows:

1. The dates of any relevant judicial proceedings prior to the death or near death of the child;

2. Recommendations submitted by each participant in writing at the relevant judicial proceedings including recommendations made at the hearing as they relate to custody or placement of a child; and

3. The relevant rulings of the court.

H. 1. At any time subsequent to seven (7) days after the date the person responsible for the child has been criminally charged, the Oklahoma Commission on Children and Youth shall, upon request, release certain information to the public within sixty (60) days of the request as follows:

a. a confirmation shall be provided by the Commission as to whether a report of suspected child abuse or neglect has been made concerning the alleged victim or other children while living in the same household and whether an investigation has begun,

b. confirmation shall be provided by the Commission as to whether previous reports of suspected child abuse or neglect have been made concerning the alleged victim of the death or near death or against the person responsible for the child and the dates thereof, a summary of those previous reports, the dates and outcome of any investigations or actions taken by the Department and the Commission in response to any previous report of child abuse or neglect, and the specific recommendation made to the district attorney and any subsequent action taken by the district attorney,

c. the dates of any relevant judicial proceedings prior to the death or near death of the child,

d. recommendations submitted by the Department and the Commission shall be provided in writing including relevant recommendations made at the hearing as they relate to custody or placement of a child,

e. the relevant rulings of the court, and

f. any relevant information listed in subsections E and G of this section.

2. Specific recommendations made by the Commission described in any progress reports of a pending case submitted to the court may be disclosed by the Commission.

I. Unless specifically authorized by this section, any public disclosure of information pursuant to this section shall not:

1. Identify or provide any identifying information of any complainant or reporter of child abuse or neglect;

2. Identify or provide any identifying information of the victim, the child victim's siblings or other children living in the same household, the parent or other person responsible for the child, or any other member of the household, or the person criminally charged or Department employees, agents or contractors. Nonspecific descriptors, such as father, mother, stepparent, or sibling may be used; or

3. Violate other state or federal law as required pursuant to subsection A of Section 1-6-102 of this title.

J. Any and all statements, affirmations, gestures, or conduct expressing apology, sympathy, commiseration, condolence, compassion, sorrow or a general sense of benevolence which are made by the Department of Human Services or an employee of the Department to the public or to the family or foster parents of a child which relate solely to discomfort, pain, suffering, injury, tragedy, near death or death of a child shall be inadmissible as evidence of an admission of liability or wrongdoing or as evidence of an admission against interest.

Added by Laws 2007, c. 351, § 4, emerg. eff. June 4, 2007. Amended by Laws 2008, c. 293, § 3, emerg. eff. June 2, 2008; Laws 2009, c. 233, § 75, emerg. eff. May 21, 2009. Renumbered from § 7005-1.9 of Title 10 by Laws 2009, c. 233, § 272, emerg. eff. May 21, 2009. Amended by Laws 2011, c. 244, § 5, eff. Nov. 1, 2011; Laws 2012, c. 343, § 2, eff. Nov. 1, 2012; Laws 2014, c. 357, § 1, eff. Nov. 1, 2014; Laws 2015, c. 54, § 1, emerg. eff. April 10, 2015.

Note: Laws 2014, c. 355, § 5 repealed by Laws 2015, c. 54, § 2, emerg. eff. April 10, 2015.

§10A-1-6-106. Filing of social records with the court.

Social records as defined by the Oklahoma Children's Code shall not be filed in the court record unless so ordered by the court. If filed in the court record, the social records shall be placed in confidential envelopes in the court file and may only be accessed by the person who is the subject of the records, or attorney for such person, except as provided by Section 1-6-103 of this title.

Added by Laws 2009, c. 233, § 133, emerg. eff. May 21, 2009.

§10A-1-6-107. Confidentiality - Violation - Penalty.

A. The reports required by Section 1-2-101 of this title and all other information acquired pursuant to the Oklahoma Children's Code shall be confidential and may be disclosed only as provided by this Code, applicable state or federal law, regulation, or court order.

B. The confidential records and information that are authorized to be disclosed pursuant to this Chapter shall remain confidential and the use of such information shall be limited to the purposes for which disclosure is authorized. Persons or agencies obtaining records pursuant to this Chapter are prohibited from disclosing the contents of such records to another person or agency unless specifically authorized to do so by law or by the terms of a court order.

C. The disclosure of any confidential records or information made by the Department of Human Services pursuant to law or court order shall not be deemed a waiver of confidentiality or privilege, and any recipient of such records or information shall protect them against unauthorized disclosure and maintain them confidentially and in compliance with state and federal law.

D. Any person or agency who knowingly permits, assists, or encourages the release, disclosure, or use of confidential records or information for any commercial, political, or unauthorized purpose may be prosecuted for contempt of court or for a misdemeanor, which shall, upon conviction, be punishable by up to six (6) months in jail, by a fine of Five Hundred Dollars (\$500.00), or by both such fine and imprisonment.

Added by Laws 1995, c. 353, § 7, eff. Nov. 1, 1995. Amended by Laws 1998, c. 416, § 15, eff. Nov. 1, 1998; Laws 2009, c. 233, § 84, emerg. eff. May 21, 2009. Renumbered from § 7107 of Title 10 by Laws 2009, c. 233, § 273, emerg. eff. May 21, 2009.

§10A-1-6-108. Maintenance of records.

Court and agency records required to be maintained pursuant to law regarding deprived children shall be maintained by the court or agency until otherwise provided by law.

Added by Laws 1995, c. 352, § 64, eff. July 1, 1995. Renumbered from § 7005-1.8 of Title 10 by Laws 2009, c. 233, § 274, emerg. eff. May 21, 2009.

§10A-1-7-101. Duties and rights of persons or agencies receiving custody - Exception.

A. This section applies to persons, institutions, or agencies, other than the Department of Human Services, which receive custody of a child pursuant to a court order as provided by the Oklahoma Children's Code.

B. 1. The person, institution, or agency receiving custody shall have the right to, and shall be responsible for, the care and

control of the child, and shall have the duty and authority to provide the following for the child:

- a. food, clothing, and shelter,
- b. medical care as authorized by the court,
- c. education and discipline, and
- d. encouragement of the emotional and developmental growth of the child by allowing the child to participate in age-appropriate and developmentally appropriate extracurricular, enrichment, cultural, and social activities, using a reasonable and prudent parent standard.

2. The person, institution, or agency may provide or arrange for the emergency admission, inpatient evaluation, or inpatient treatment of a child only pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Minors Act. Nothing in this subsection shall be interpreted to prohibit or preclude the provision of outpatient behavioral health services, including an outpatient examination, counseling, educational, rehabilitative or other similar services to such child, as necessary and appropriate, in the absence of a specific court order for such services.

3. Nothing in this subsection shall be interpreted to:

- a. relieve a parent of the obligation to provide for the support of the child as otherwise provided by law, or
- b. limit the authority of the court to order a parent to make support payments or to make payments or reimbursements for medical care or treatment, including behavioral health care or treatment, to the person, institution, or agency having custody of the child, or
- c. abrogate the right of the child to any benefits provided through public funds for which the child is otherwise eligible.

4. No person, agency, or institution shall be liable in a civil suit for damages for authorizing or not authorizing medical care, as determined by competent medical authority.

C. 1. If the child is placed in the custody of a person, institution, or agency, whether in emergency, temporary, or permanent custody, the person, institution, or agency shall ensure the child is not returned to the care or supervision of any person from whom the child was removed or to any person the court has previously ordered not to have contact with the child without specific authorization from the court.

2. The person, institution, or agency having legal custody of a child pursuant to an order of the court shall receive notice of court proceedings regarding the child and shall be allowed to intervene upon application as a party to all court proceedings pertaining to the care and custody of the child.

D. This section shall not apply when a parent or legal custodian executes a power of attorney to delegate parental or legal authority as authorized by Section 700 of Title 10 of the Oklahoma Statutes. Added by Laws 1968, c. 282, § 117, eff. Jan. 13, 1969. Amended by Laws 1983, c. 328, § 6, emerg. eff. June 28, 1983; Laws 1990, c. 302, § 8, eff. Sept. 1, 1990; Laws 1992, c. 298, § 29, eff. July 1, 1993; Laws 1994, c. 15, § 2, eff. Sept. 1, 1994; Laws 1995, c. 352, § 38, eff. July 1, 1995. Renumbered from § 1117 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1996, c. 3, § 2, emerg. eff. March 6, 1996; Laws 1996, c. 200, § 10, eff. Nov. 1, 1996; Laws 1997, c. 386, § 7, emerg. eff. June 10, 1997; Laws 1998, c. 421, § 25, emerg. eff. June 11, 1998; Laws 2002, c. 327, § 19, eff. July 1, 2002; Laws 2009, c. 233, § 51, emerg. eff. May 21, 2009. Renumbered from § 7003-7.1 of Title 10 by Laws 2009, c. 233, § 275, emerg. eff. May 21, 2009. Amended by Laws 2014, c. 172, § 4, emerg. eff. April 28, 2014; Laws 2015, c. 173, § 6, eff. Nov. 1, 2015. NOTE: Laws 1995, c. 353, § 17 repealed by Laws 1996, c. 3, § 25, emerg. eff. March 6, 1996.

§10A-1-7-102. Responsibility for deprived children.

A. It shall be the responsibility of the Department of Human Services to provide care for deprived children who are committed to the custody of the Department.

B. The Department shall provide for the care of such children pursuant to Chapter IX of this Code.

Added by Laws 1968, c. 282, § 136, eff. Jan. 13, 1969. Amended by Laws 1982, c. 312, § 27, operative Oct. 1, 1982; Laws 1990, c. 238, § 8, emerg. eff. May 21, 1990; Laws 1992, c. 298, § 34, eff. July 1, 1993; Laws 1994, c. 320, § 1, eff. Sept. 1, 1994; Laws 1995, c. 352, § 6, eff. July 1, 1995. Renumbered from § 1136 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 2000, c. 374, § 7, eff. July 1, 2000; Laws 2009, c. 233, § 14, emerg. eff. May 21, 2009. Renumbered from § 7002-2.1 of Title 10 by Laws 2009, c. 233, § 276, emerg. eff. May 21, 2009.

§10A-1-7-103. Department of Human Services - Additional duties and powers.

A. In addition to the other powers and duties prescribed by law, the Department of Human Services shall have the power and duty to:

1. Provide for the care and treatment of children taken into protective or emergency custody pursuant to the provisions of the Oklahoma Children's Code, and placed in the Department's custody by an order of the court.

In providing for the care and treatment of such children, the Department shall:

a. place the children in:

(1) a kinship care home or other foster care home, or

(2) if no such home is available, a group home, children's shelter, or in any licensed facility established for the care of children.

In determining any placement for a child who has been removed from the custody of a custodial parent and placed with the Department in emergency custody, priority shall be given by the Department to the placement of such child with the noncustodial parent of the child unless such placement is not in the best interest of the child,

- b. if ordered by the court, provide supervision of children alleged to be deprived who are placed by the court in the custody of a parent, relative, or other responsible person. Such supervision shall be in accordance with rules promulgated by the Department and shall not exceed the period allowed for the filing of a petition or, if a petition is filed, the period authorized by the court,
- c. admit an alleged deprived child to a hospital or behavioral health facility as provided in the Inpatient Mental Health and Substance Abuse Treatment of Minors Act,
- d. provide outpatient behavioral health care and treatment as prescribed by a qualified behavioral health professional,
- e. provide, as soon as practicable, educational instruction through enrollment in a public school or an alternative program consistent with the needs and abilities of the child,
- f. provide or prescribe treatment services for the family of an alleged deprived child placed in the emergency custody of the Department if such services are voluntarily requested and the family is otherwise eligible under applicable law and rules promulgated by the Commission for the services offered, and
- g. provide medical care necessary to preserve the health of the child in accordance with the provisions of this Code; and

2. Provide for the care and treatment of an adjudicated deprived child placed in the temporary custody of the Department by an order of the court. In providing for such care and treatment, the Department:

- a. shall review and assess each child to determine the type of placement and services consistent with the needs of the child in the nearest geographic proximity to the home of the child as possible. In making the

- review, the Department may use any facilities, public or private, which aid in the assessment,
- b. shall develop and implement an individualized service plan for each child in accord with the requirements of Section 1-4-704 of this title,
  - c. may return a deprived child to the home of the parent or legal guardian from whom the child was removed with prior approval of the court, or place the child in the home of a noncustodial parent, in a foster care home, in a children's shelter, in a group home, in an independent living program, or in any licensed facility established for the care of children,
  - d. may admit a deprived child to a hospital or behavioral health facility as provided in the Inpatient Mental Health and Substance Abuse Treatment of Minors Act,
  - e. may provide outpatient behavioral health care and treatment as prescribed by a qualified behavioral health professional,
  - f. shall, if ordered by the court, provide supervision of children adjudicated deprived who are placed by the court in the custody of a parent, relative, or other responsible person. Such supervision shall be in accordance with rules promulgated by the Department, and
  - g. shall provide medical care necessary to preserve the health of the child in accordance with the provisions of the Oklahoma Children's Code.

B. 1. The Department may move a child in its custody from any authorized placement to another authorized placement if consistent with the needs of the child or as may be required in an emergency, subject to the provisions of Section 1-4-804 and 1-4-805 of this title.

2. The Department, in placing a child who has reentered foster care, shall consider previous foster placements as well as a kinship foster home placement if available. The placement shall be consistent with the best interests of the child.

C. The Department shall assure that any child who has attained the minimum age for compulsory school attendance and is eligible for a foster care payment under Title IV-E of the Social Security Act, 42 U.S.C. 670 et seq., is:

- 1. Enrolled in an institution which provides elementary or secondary education as determined under the law of the state or other jurisdiction in which the institution is located;
- 2. Instructed in elementary or secondary education in any legally authorized education program;
- 3. In an independent study elementary or secondary education program in accordance with the law of the state or jurisdiction in

which the program is located, which is administered by the local school or school district; or

4. Incapable of attending school on a full-time basis due to a documented medical condition supported by regular updates.

D. The Department has the authority to consent to travel for a child in its custody outside the jurisdiction of the court, except that court approval is required for travel outside of the United States. Permission for school or organizational activities requiring consent and not prohibited by Department rule may be given by the foster parent.

E. The Department shall receive notice of all court proceedings regarding any child in its custody and shall, upon application, be allowed to intervene as a party for a specified purpose, to any court proceedings pertaining to the care and custody of the child.

F. The Department may participate in federal programs relating to deprived children and services for such children; and apply for, receive, use and administer federal funds for such purposes.

G. The Department shall receive interest earnings on the investment by the State Treasurer of monies, to be credited to an agency special account, for the benefit of and held in trust for persons placed in the custody of the Department or in residence at facilities maintained by the Department.

Added by Laws 1968, c. 282, § 404, eff. Jan. 13, 1969. Amended by Laws 1982, c. 312, § 38, operative July 1, 1982; Laws 1984, c. 263, § 15, operative July 1, 1984; Laws 1989, c. 353, § 1, emerg. eff. June 3, 1989; Laws 1990, c. 238, § 11, emerg. eff. May 21, 1990; Laws 1992, c. 298, § 37, eff. July 1, 1993; Laws 1995, c. 352, § 47, eff. July 1, 1995. Renumbered from § 1404 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1997, c. 386, § 8, emerg. eff. June 10, 1997; Laws 1998, c. 421, § 28, emerg. eff. June 11, 1998; Laws 2001, c. 141, § 4, emerg. eff. April 30, 2001; Laws 2009, c. 233, § 60, emerg. eff. May 21, 2009. Renumbered from § 7004-1.1 of Title 10 by Laws 2009, c. 233, § 277, emerg. eff. May 21, 2009. Amended by Laws 2009, c. 338, § 8, eff. July 1, 2009.

NOTE: Laws 1984, c. 219, § 4 repealed by Laws 1989, c. 353, § 14, emerg. eff. June 3, 1989. Laws 1992, c. 299, § 17 repealed by Laws 1992, c. 373, § 22, eff. July 1, 1992.

§10A-1-7-104. Information to accompany child placed outside child's home - Passport Program.

A. The court shall ensure that the following information accompanies any deprived child placed outside the child's home as soon as the information becomes available:

1. Demographic information;
2. Strengths, needs and general behavior of the child;
3. Circumstances which necessitated placement;
4. Type of custody and previous placement;

5. Pertinent family information including, but not limited to, the names of family members who are and who are not, by court order, allowed to visit the child and the child's relationship to the family which may affect placement;

6. Known and important life experiences and relationships which may significantly affect the child's feelings, behavior, attitudes or adjustment;

7. Whether the child has third-party insurance coverage which may be available to the child;

8. Education history to include present grade placement, last school attended, and special strengths and weaknesses. The Department of Human Services shall also assist the foster parents in getting the child admitted into school and obtaining the child's school records; and

9. Known or available medical history including, but not limited to:

- a. allergies,
- b. immunizations,
- c. childhood diseases,
- d. physical handicaps,
- e. psycho-social information, and
- f. the name of the child's last doctor, if known.

B. When the Department places a child in out-of-home care, the Department shall provide the placement providers with sufficient medical information to enable the placement providers to care for the child safely and appropriately. Such medical information shall include, but not be limited to:

1. Any medical or psychological conditions;
2. Diseases, illnesses, accidents, allergies, and congenital defects;
3. The child's Medicaid card or information on any other third-party insurer, if any; and
4. Immunization history.

C. 1. The Department of Human Services shall establish a Passport Program for children in the custody of the Department.

2. The Program shall provide for a Passport, which shall be a compilation of the significant information provided for in subsections A and B of this section for each child, in particular, education and physical and behavioral health records.

3. In furtherance of the purposes of this section, the Oklahoma Health Care Authority, the Department of Education, and the Department of Mental Health and Substance Abuse Services shall cooperate with the Department to establish the Passport Program.

4. The Passport shall accompany each child to wherever the child resides so long as the child is in the custody of the Department and the Department shall:

- a. work with public and private partners to gain access to the information listed in subsections A and B of this section,
- b. provide for a secure database in which to store the information, and
- c. consult with the Oklahoma Health Care Authority to convert Medicaid claims data to a usable format and to add it from other data sources in order to provide foster families more information about the history and needs of the child.

5. For the purposes of Section 1 of this act, the secure database created to store Passport information shall be made available to the Office of Juvenile Affairs. Such access shall be limited to student performance reports for students in the custody of the Office of Juvenile Affairs.

Added by Laws 1981, c. 289, § 3, eff. Oct. 1, 1981. Amended by Laws 1995, c. 352, § 31, eff. July 1, 1995. Renumbered from § 1115.2 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1996, c. 353, § 21, eff. Nov. 1, 1996; Laws 1997, c. 2, § 1, emerg. eff. Feb. 26, 1997; Laws 1997, c. 389, § 3, eff. Nov. 1, 1997; Laws 1998, c. 5, § 5, emerg. eff. March 4, 1998; Laws 1998, c. 421, § 17, emerg. eff. June 11, 1998; Laws 2009, c. 233, § 36, emerg. eff. May 21, 2009. Renumbered from § 7003-5.4 of Title 10 by Laws 2009, c. 233, § 278, emerg. eff. May 21, 2009. Amended by Laws 2009, c. 338, § 7, eff. July 1, 2009; Laws 2014, c. 46, § 2, eff. July 1, 2014.

NOTE: Laws 1996, c. 212, § 1 repealed by Laws 1997, c. 2, § 26, emerg. eff. Feb. 26, 1997. Laws 1997, c. 386, § 6 repealed by Laws 1998, c. 5, § 29, emerg. eff. March 4, 1998.

§10A-1-7-105. Rules, policies and procedures regarding children in Department custody.

A. The Department of Human Services shall promulgate written rules, policies, and procedures governing the operation of those residential care facilities, including group homes, operated by or under contract with the Department wherein a child may be placed, requiring assurance that at least one employee of the facility is designated and authorized to apply the reasonable and prudent parent standard to decisions involving the participation of a child in age-appropriate or developmentally appropriate activities. The authorized employee shall be provided with training on how to use and apply the reasonable and prudent parent standard.

B. The policies prescribed shall, at a minimum, ensure that:

1. A child shall not be punished by physical force, deprivation of nutritious meals or family visits, or solitary confinement;
2. A child shall have the opportunity to participate in physical exercise each day;

3. A child shall be allowed daily access to showers;

4. A child shall be allowed his or her own clothing or individualized clothing which is clean;

5. A child shall have constant access to writing materials and may send mail without limitation, censorship, or prior reading, and may receive mail without prior reading, except that mail may be opened in the presence of the child, without being read, to inspect for contraband or if authorized by the court for the protection of the child;

6. A child shall have a right to communicate and to visit with his or her family on a regular basis, and to communicate with persons in the community provided the communication or visitation is in the best interests of the child;

7. A child shall have timely access to medical care as needed;

8. A child in the custody or care of the Department shall be provided access to an education including teaching, educational materials, and books;

9. A child shall have a right to access to the child's attorney;

10. A child shall be afforded a grievance procedure, including an appeal procedure;

11. The behavioral health needs of the child shall be met, protected, and served through provision of guidance, counseling, and treatment programs, staffed by competent, professionally qualified persons;

12. The emotional and developmental growth of the child shall be encouraged by allowing the child to participate in age-appropriate and developmentally appropriate extracurricular, enrichment, cultural, and social activities, using a reasonable and prudent parent standard; and

13. Use of physical force, when authorized, shall be the least force necessary under the circumstances and shall be permitted only under the following circumstances:

- a. for self-protection,
- b. to separate children who are fighting,
- c. to restrain children in danger of inflicting harm to themselves or others, or
- d. to deter children who are in the process of leaving the facility without authorization.

C. Any contract or agreement entered into by the Department for the residential care and treatment of children in the custody of the Department shall provide that a failure to comply with the provisions of this section may result in a termination or cancellation of the contract or other appropriate sanction.

Added by Laws 1982 c. 312, § 34, operative July 1, 1982. Amended by Laws 1986, c. 286, § 7, eff. Nov. 1, 1986; Laws 1990, c. 51, § 9, emerg. eff. April 9, 1990; Laws 1995, c. 352, § 53, eff. July 1, 1995. Renumbered from § 1403.1 of Title 10 by Laws 1995, c. 352, §

199, eff. July 1, 1995. Amended by Laws 2002, c. 327, § 20, eff. July 1, 2002; Laws 2009, c. 233, § 68, emerg. eff. May 21, 2009. Renumbered from § 7004-3.2 of Title 10 by Laws 2009, c. 233, § 279, emerg. eff. May 21, 2009. Amended by Laws 2010, c. 358, § 4, emerg. eff. June 7, 2010; Laws 2015, c. 173, § 7, eff. Nov. 1, 2015.

§10A-1-7-106. Placement of child into foster care.

A. When a child is placed into foster care, the child shall, when possible, be placed with relatives, or other persons having a kinship relationship with the child, who are determined to be suitable, capable and willing to serve as caretakers for the child; provided however, if the child is determined to be an Indian child, as defined by the federal and state Indian Child Welfare Acts, the placement preferences specified by Section 1915 of Title 25 of the United States Code and Section 40.2 of Title 10 of the Oklahoma Statutes shall apply.

B. A foster care placement shall be made that:

1. Meets the treatment needs of the foster child and supports the permanency plan for that child and the family of that child;

2. Follows the reasonable and prudent parent standard of care for the foster child while at the same time encouraging the emotional and developmental growth of the child when determining whether to allow the child to participate in extracurricular, enrichment, cultural, and social activities;

3. Is in the best interests of the child; and

4. Complies with all requirements of this section, subject to an appropriate sanction for noncompliance.

Added by Laws 1996, c. 353, § 2, eff. Nov. 1, 1996. Amended by Laws 1997, c. 389, § 9, eff. Nov. 1, 1997; Laws 1998, c. 414, § 2, emerg. eff. June 11, 1998; Laws 2009, c. 233, § 93, emerg. eff. May 21, 2009. Renumbered from § 7202 of Title 10 by Laws 2009, c. 233, § 280, emerg. eff. May 21, 2009. Amended by Laws 2015, c. 173, § 8, eff. Nov. 1, 2015.

§10A-1-7-107. Placement with siblings - Contact and visitation with siblings.

A. When two or more children in foster care are siblings, every reasonable attempt should be made to place them in the same home, except as provided in subsection B of this section. In making a permanent placement, such children should be placed in the same permanent home or, if the siblings are separated, should be allowed contact or visitation with other siblings; provided, however, the best interests of each sibling shall be the standard for determining whether they should be placed in the same foster placement or permanent placement, or allowed contact or visitation with other siblings.

B. Siblings may be separated if the court and the Department of Human Services find that placement of siblings together would be contrary to the safety or well-being of any of the siblings, and:

1. One sibling has resided in a foster family home for six (6) or more months and has established a relationship with the foster family;
2. The siblings have never resided in the same home;
3. There is no established relationship between the siblings; or
4. It is in the best interests of the child to remain in the current foster family home placement.

Added by Laws 2009, c. 233, § 134, emerg. eff. May 21, 2009. Amended by Laws 2016, c. 245, § 2, eff. Nov. 1, 2016; Laws 2017, c. 342, § 4, eff. Nov. 1, 2017.

§10A-1-7-108. Liability for costs voluntarily expended by foster parent.

Neither the Department of Human Services nor a child-placing agency shall be liable for any costs or expenses expended voluntarily by a foster parent for a foster child which are in excess of the funds authorized for providing foster care services to the foster child.

Added by Laws 1996, c. 353, § 4, eff. Nov. 1, 1996. Amended by Laws 1997, c. 389, § 10, eff. Nov. 1, 1997; Laws 1998, c. 414, § 6, emerg. eff. June 11, 1998; Laws 2009, c. 160, § 6, emerg. eff. May 11, 2009; Laws 2009, c. 233, § 94, emerg. eff. May 21, 2009. Renumbered from § 7204 of Title 10 by Laws 2009, c. 233, § 281, emerg. eff. May 21, 2009.

§10A-1-7-109. Foster placements - License or authorization - Exception.

A. Except as otherwise provided by this section, no child in the custody of the Department of Human Services shall be placed with any foster placement unless the foster placement:

1. Has a current license or authorization issued pursuant to the Oklahoma Child Care Facilities Licensing Act; or
2. Meets licensing standards as required by the Oklahoma Child Care Facilities Licensing Act and is otherwise approved for foster care by the state agency for children within its custody.

B. Except as otherwise provided by this section, no person, corporation, or other legal entity shall receive a child for foster care or provide foster care services to a child unless such legal entity has a license or meets licensing standards as required by the Oklahoma Child Care Facilities Licensing Act, and is otherwise approved by the state agency for children within its custody.

C. The provisions of this section shall not be construed to prohibit foster placement of children in foster homes licensed or

approved by Indian tribes, pursuant to the terms in Section 40.8 of Title 10 of the Oklahoma Statutes.

D. This section shall not apply when a parent or legal custodian executes a power of attorney to delegate parental or legal authority as authorized by Section 1 of this act.

Added by Laws 1996, c. 353, § 5, eff. Nov. 1, 1996. Amended by Laws 1997, c. 386, § 12, emerg. eff. June 10, 1997; Laws 2009, c. 233, § 96, emerg. eff. May 21, 2009. Renumbered from § 7205 of Title 10 by Laws 2009, c. 233, § 282, emerg. eff. May 21, 2009. Amended by Laws 2014, c. 172, § 5, emerg. eff. April 28, 2014.

§10A-1-7-110. Grounds for determination of placement.

In determining placement of a deprived child in foster care:

1. The Department of Human Services or the court, if the court does not place the child with the Department, and any child-placing agency shall be governed by the best interests of the child; and

2. The child may express a preference as to placement and the preference may be given with or without the parents, foster parents, guardians, or any other parties being present. The Department, the court, or the child-placing agency shall determine whether the best interests of the child will be served by the child's preference. The Department, the court, or the child-placing agency shall not be bound by the child's preference and may consider other facts in determining the placement.

Added by Laws 1996, c. 353, § 7, eff. Nov. 1, 1996. Amended by Laws 2009, c. 233, § 99, emerg. eff. May 21, 2009. Renumbered from § 7207 of Title 10 by Laws 2009, c. 233, § 283, emerg. eff. May 21, 2009.

§10A-1-7-111. Foster parent eligibility assessment - Criminal history investigation - Individualized service plan - Medical examinations.

A. 1. Except as otherwise provided by law, the Department of Human Services or the Office of Juvenile Affairs shall not place a child in a foster home prior to completion of:

- a. a foster parent eligibility assessment on the foster parent applicant,
- b. a national criminal history records search based upon submission of fingerprints for any adult residing in the home, as required by the Oklahoma Child Care Facilities Licensing Act and the Oklahoma Children's Code,
- c. a Motor Vehicle Report obtained from the Department of Public Safety regarding each adult residing in the home, and
- d. a check of any child abuse registry maintained by a state in which the prospective foster parent or any

adult living in the home of the prospective foster parent has resided in the preceding five (5) years. Provided, however, the state agencies may place a child in the home of a foster parent, pending completion of the national criminal history records search, if the foster parent and every adult residing in the home of the foster parent have resided in this state for at least five (5) years immediately preceding placement. The director of such state agency or designee may authorize an exception to the fingerprinting requirement for any person residing in the home who has a severe physical condition which precludes such person from being fingerprinted.

2. a. The Department shall be the lead agency for disseminating fingerprint cards to courts and child-placing agencies for obtaining and requesting a national criminal history records search based upon submission of fingerprints from the Oklahoma State Bureau of Investigation. The Office of Juvenile Affairs may directly request national criminal history records searches as defined by Section 150.9 of Title 74 of the Oklahoma Statutes from the Oklahoma State Bureau of Investigation for the purpose of obtaining the national criminal history of any individual for which such a search is required pursuant to this section.
- b. Courts and child-placing agencies may request the Department to obtain from the Oklahoma State Bureau of Investigation a national criminal history records search based upon submission of fingerprints for foster parents and other persons requiring such search pursuant to the Oklahoma Child Care Facilities Licensing Act and the Oklahoma Children's Code. Any fees charged by the Oklahoma State Bureau of Investigation or the Federal Bureau of Investigation for such searches shall be paid by the requesting entity.
- c. Either the Department or the Office of Juvenile Affairs, whichever is applicable, shall contract with the Oklahoma State Bureau of Investigation to obtain national criminal history records searches based upon submission of fingerprints.

B. A child-placing agency shall not place a child who is in the custody of the agency in a foster home until completion of a foster parent eligibility assessment and a national criminal history records search based upon submission of fingerprints has been completed for each individual residing in the home in which the child will be placed, as required pursuant to the Oklahoma Child Care Facilities Licensing Act or the Oklahoma Children's Code, and a check of any

child abuse registry maintained by a state in which the prospective foster parent or any adult living in the home of the prospective foster parent has resided in the past five (5) years; provided, however, the child-placing agency may place a child in a foster family home pending completion of the national criminal history records search if the foster parent and every adult residing in the home have resided in this state for at least five (5) years immediately preceding the placement.

C. 1. Whenever a court awards custody of a child to an individual or a child-placing agency other than the Department or the Office of Juvenile Affairs, for placement of the child, the court shall:

- a. require that when custody is placed with an individual, a foster family eligibility assessment be conducted for the foster parents prior to placement of the child, and
- b. require that if custody is awarded to a child-placing agency, a foster family eligibility assessment be conducted as required by the Oklahoma Child Care Facilities Licensing Act.

2. A child-placing agency other than the Department or the Office of Juvenile Affairs shall, within thirty (30) days of placement, provide for an assessment of the child for the purpose of establishing an appropriate individualized service plan for the child. The court shall require the individualized service plan to be completed in substantially the same form and with the same content as required by the Oklahoma Children's Code for a deprived child or as required by the Oklahoma Juvenile Code for a delinquent child or a child in need of supervision.

3. The child shall receive a complete medical examination within thirty (30) days of initial placement unless a medical examination was conducted on the child upon the removal of the child and the court finds no need for an additional examination.

4. The child may receive such further diagnosis and evaluation as necessary as determined by the court to preserve the physical and mental well-being of the child.

D. When the court awards custody of a child to an individual or a child-placing agency as provided by this section, the individual or child-placing agency shall be responsible for the completion of and costs of the national criminal history records search based upon submission of fingerprints, the foster parent eligibility assessment, the preparation of an individualized service plan, and the medical examination required by this section.

Added by Laws 1996, c. 353, § 9, eff. Nov. 1, 1996. Amended by Laws 1997, c. 386, § 14, emerg. eff. June 10, 1997; Laws 1998, c. 414, § 10, emerg. eff. June 11, 1998; Laws 1999, c. 2, § 3, emerg. eff. March 3, 1999; Laws 2002, c. 237, § 4, emerg. eff. May 9, 2002; Laws 2003, c. 213, § 2, eff. July 1, 2003; Laws 2007, c. 196, § 6, eff.

July 1, 2007; Laws 2008, c. 159, § 1, emerg. eff. May 12, 2008; Laws 2009, c. 233, § 101, emerg. eff. May 21, 2009. Renumbered from § 7209 of Title 10 by Laws 2009, c. 233, § 284, emerg. eff. May 21, 2009. Amended by Laws 2009, c. 338, § 12, eff. July 1, 2009; Laws 2012, c. 242, § 2.

§10A-1-7-112. Voluntary foster care placement.

A. The Department of Human Services may accept a child into voluntary foster care placement when requested by the parent having legal custody of the child or when requested by a child residing in foster care who reaches eighteen (18) years of age and wishes to continue to reside in the foster care home pursuant to the provisions of subsection B of this section.

B. 1. Any child may be accepted into voluntary foster care placement with the Department.

2. The Department shall inform a parent considering voluntary foster care placement of a child, or the child residing in foster care who attains eighteen (18) years of age and wishes to continue to reside in the foster care home, of the following as applicable:

- a. a parent who enters a voluntary foster care placement agreement may at any time request that the agency return the child,
- b. evidence gathered during the time the child is voluntarily placed in foster care may be used at a later time as the basis for a petition alleging that the child is deprived, or as the basis for a petition seeking termination of parental rights,
- c. the timelines and procedures for voluntary foster care placements.

3. Upon acceptance of a child into voluntary foster care placement, the Department shall prepare a notice of placement signed by the parent or the child residing in foster care who reaches eighteen (18) years of age and wishes to continue to reside in the foster care home.

4. A period of voluntary foster care placement pursuant to the provisions of this section shall not exceed ninety (90) days except as otherwise provided by the Department by rule.

5. Except as otherwise provided by this section or Section 1-4-904 of this title, voluntary foster care placement pursuant to the conditions and restrictions of this subsection shall not constitute abandonment, or abuse or neglect as defined in the Oklahoma Children's Code.

6. The Department shall promulgate rules for the purpose of assessing parents for the full or partial cost of voluntary foster care placement.

Added by Laws 1998, c. 421, § 32, emerg. eff. June 11, 1998. Amended by Laws 2009, c. 233, § 106, emerg. eff. May 21, 2009. Renumbered

from § 7214 of Title 10 by Laws 2009, c. 233, § 285, emerg. eff. May 21, 2009.

§10A-1-7-113. Visitation requirements for the Department of Human Services or child-placing agency.

The Department of Human Services or child-placing agency shall visit each foster child a minimum of one time per month, with no less than two visits per quarter in the foster placement. Each child shall be interviewed, or if an infant observed, alone without the foster parent present at least one time per quarter.

Added by Laws 1998, c. 414, § 14, emerg. eff. June 11, 1998. Amended by Laws 2008, c. 159, § 2, emerg. eff. May 12, 2008; Laws 2009, c. 233, § 108, emerg. eff. May 21, 2009. Renumbered from § 7221 of Title 10 by Laws 2009, c. 233, § 286, emerg. eff. May 21, 2009. Amended by Laws 2009, c. 338, § 13, eff. July 1, 2009.

§10A-1-7-114. Foster parent eligibility assessment - Completion and costs - Reimbursement.

A. The Department of Human Services and the Office of Juvenile Affairs shall be responsible for the completion of and costs of the foster parent eligibility assessment and any national criminal history records search based upon submission of fingerprints, preparation of a treatment and service plan, and a medical examination only for the children placed in the custody of the state agency. The state agency may provide for reimbursement of such expenses, costs, and charges so incurred pursuant to the Oklahoma Children's Code or the Oklahoma Juvenile Code, as applicable.

B. No child shall be eligible for any reimbursement through the state Medicaid program for placement in therapeutic foster care unless such placement has been reviewed and approved pursuant to rules regarding medical necessity for therapeutic foster care placement promulgated by the Oklahoma Health Care Authority Board. Added by Laws 2009, c. 233, § 135, emerg. eff. May 21, 2009.

§10A-1-7-115. Emergency placement home - Criminal records check.

A. When it is necessary for a child to be removed from the home due to allegations of child abuse or neglect, the Department of Human Services may consider whether another home would be suitable for the child as an emergency placement pending further court proceedings. In determining the suitability of the emergency placement home, the Department may elect to contract or otherwise collaborate with local law enforcement agencies to perform a name-based state and federal criminal history records check followed by fingerprint verification in accordance with the procedures set forth in 28 C.F.R., Section 901 et seq., and this section.

B. When a child is taken into protective custody by a law enforcement officer or when the court places emergency custody of a

child with the Department pursuant to the provisions of the Oklahoma Children's Code and an emergency placement for the child is identified, a preliminary Federal Bureau of Investigation Interstate Identification Index name-based check of the records of criminal history of the members of the emergency placement household shall be conducted prior to the placement of the child in the home.

1. When a child is in the emergency custody of the Department, the Department or its approved designee may conduct a preliminary name-based check of certain records, including full orders of protection and outstanding warrants, of each person over the age of eighteen (18) years residing in the identified potential emergency placement home where the child may be placed to determine whether any adult member of the household has been arrested for or convicted of any crime.

2. When the child is in protective custody of law enforcement or when requested by the Department or its approved designee, a local law enforcement agency shall immediately conduct the same type of criminal records search as described in paragraph 1 of this subsection and shall provide the Department with a verbal response of each person's criminal history and whether any orders of protection or outstanding warrants exist.

C. 1. Following a name-based criminal records check conducted pursuant to this section, and within five (5) business days after the child has entered the emergency placement home, all persons residing in the home who are over the age of eighteen (18) years and those persons who are under the age of eighteen (18) years and have been certified as an adult for the commission of a crime, shall submit a full set of fingerprints to the Department and provide written permission authorizing the Department to forward the fingerprints to the Oklahoma State Bureau of Investigation for submission to the Federal Bureau of Investigation for criminal records report.

2. The Department shall forward the fingerprints to the Oklahoma State Bureau of Investigation within fifteen (15) calendar days after the results of the preliminary name-based records check are received. The failure of any person to submit to a name-based criminal records check shall result in the immediate removal of the child from the emergency placement home.

D. The costs associated with fingerprinting requirements of this section shall be paid by the Department.

Added by Laws 2009, c. 338, § 14, eff. July 1, 2009.

§10A-1-7-116. Notice to placement agencies when a child in custody becomes eligible for adoption.

A. When a child in the custody of the Department of Human Services becomes eligible for adoption and the child needs a permanent placement, the Department shall notify and disseminate information about the child to licensed child-placing agencies that

have requested in writing to receive such notice in order to locate a possible prospective adoptive parent for the child.

B. Upon completion of an adoption specified in subsection A of this section, the Department may provide reimbursement of expenses incurred by the child-placing agency for recruiting, training and conducting a home study for the adoptive parent.

Added by Laws 2017, c. 342, § 5, eff. Nov. 1, 2017.

§10A-1-8-101. Education and training of judicial personnel and attorneys with juvenile docket responsibility.

A. 1. The Supreme Court is required to establish by rule, education and training requirements for judges, associate judges, special judges, and referees who have juvenile docket responsibility. Rules shall include, but not be limited to, education and training relating to juvenile law, child abuse and neglect, foster care and out-of-home placement, domestic violence, behavioral health treatment, and other similar topics.

2. All judges having juvenile docket responsibility shall attend at least twelve (12) hours of training in such courses each calendar year relating to the topics described in paragraph 1 of this subsection.

3. The Administrative Director of the Courts shall be responsible for developing and administering procedures and rules for such courses for judicial personnel, including monitoring the attendance of judicial personnel at such training.

B. 1. Any district attorney, assistant district attorney, public defender, assistant public defender, attorney employed by or under contract with the Oklahoma Indigent Defense System, court-appointed attorney, or attorney employed by or under contract with a district court whose duties include juvenile docket responsibility shall complete at least six (6) hours of education and training annually in courses relating to the topics described in paragraph 1 of subsection A of this section. These education and training requirements may be accomplished through a collaborative effort between the judiciary and others with juvenile docket responsibilities.

2. Each judicial district shall be responsible for developing and administering procedures and rules for such courses for attorneys identified in this subsection whose duties routinely include juvenile court docket responsibilities. The chief judge of each judicial district, or any designee judge with juvenile docket responsibilities, shall carry out this mandate within one (1) year of the effective date of this legislation.

Added by Laws 1989, c. 269, § 2, eff. Nov. 1, 1989. Amended by Laws 1994, c. 290, § 47, eff. July 1, 1994; Laws 1995, c. 353, § 19, eff. Nov. 1, 1995; Laws 1996, c. 200, § 2, eff. Nov. 1, 1996; Laws 1997, c. 386, § 15, emerg. eff. June 10, 1997; Laws 2004, c. 415, § 3,

emerg. eff. June 4, 2004; Laws 2009, c. 233, § 8, emerg. eff. May 21, 2009. Renumbered from § 1211 of Title 10 by Laws 2009, c. 233, § 287, emerg. eff. May 21, 2009. Amended by Laws 2013, c. 21, § 1, eff. Nov. 1, 2013.

§10A-1-8-102. Court-appointed special advocate - Education and training - Criminal history search - Civil liability immunity.

A. Any court-appointed special advocate (CASA) available for appointment pursuant to the Oklahoma Children's Code or the Oklahoma Juvenile Code shall complete education and training courses in juvenile law, child abuse and neglect and other issues relating to children such as foster care and parental divorce, including, but not limited to, risk factors which may identify domestic abuse and potential violence and the relationship between alcohol or drug abuse and violence, safe visitation and supervised visitation arrangements and standards for a child and parties. The chief judge of the judicial district for which a court-appointed special advocate serves shall be responsible for developing and administering procedures and rules for such courses.

B. No court-appointed special advocate shall be assigned a case before:

1. Completing a training program in compliance with nationally documented Court-Appointed Special Advocate standards. Documentation of training shall be submitted annually by local court-appointed special advocate programs to the Oklahoma Court-Appointed Special Advocate Association; and

2. Being approved by the local court-appointed special advocate program, which will include appropriate criminal background checks as provided in subsection C of this section.

C. 1. Notwithstanding any other provision of law, each local court-appointed special advocate program shall require a child welfare records search conducted by the Department of Human Services, a criminal history records search conducted by the Oklahoma State Bureau of Investigation, and any other background check requirements as set forth in Oklahoma Court-Appointed Special Advocate Association state standards for local programs, for any person making application to become a court-appointed special advocate volunteer or to be employed by the local court-appointed special advocate program. For purposes of this paragraph, "child welfare records search" means a search of the child abuse and neglect information system maintained by the Department of Human Services for review by authorized entities.

2. If the prospective court-appointed special advocate volunteer or employee of the local court-appointed special advocate program has lived in Oklahoma for less than one (1) year, a criminal history records search shall also be obtained from the criminal history state repository of the previous state of residence.

3. The Oklahoma Court-Appointed Special Advocate Association shall pay the fee for the criminal history records search provided in this subsection.

D. 1. Any person participating in a judicial proceeding as a court-appointed special advocate shall be presumed prima facie to be acting in good faith and in so doing shall be immune from any civil liability that otherwise might be incurred or imposed.

2. Any person serving in a management position of a court-appointed special advocate organization, including a member of the Board of Directors acting in good faith, shall be immune from any civil liability or any vicarious liability for the negligence of any court-appointed special advocate organization advocates, managers, or directors.

Added by Laws 2009, c. 233, § 136, emerg. eff. May 21, 2009. Amended by Laws 2019, c. 75, § 1, eff. Nov. 1, 2019.

§10A-1-8-103. Referees.

A. Any judge who is assigned to hear juvenile cases in counties having a population in excess of eighty thousand (80,000) and where funding is available may appoint a suitable person or persons to act as referee or referees on a full-time or part-time basis, to hold office at the pleasure of the judge. Referees shall be licensed to practice law in this state and shall be specially qualified for their duties. Reasonable compensation shall be fixed by the presiding judge of the administrative district.

B. All referees are subject to the administrative authority and assignment power of the chief judge of the juvenile court of the county. The duties and powers of referees shall be to hear and report all matters assigned by the chief juvenile judge and to recommend findings of fact, conclusions of law, temporary and interim orders, and final orders of judgment.

C. 1. Upon conclusion of the hearing, the referee shall provide a copy in writing of the recommended findings, conclusions, and orders to the parties, counsel, and the referring judge instanter.

2. Unless stayed by order of the referee or the reviewing judge, all orders of a referee shall become immediately effective and shall continue in full force and effect until vacated or modified upon rehearing by order of the reviewing judge. Any order entered by a referee becomes a final order of the reviewing court upon expiration of three (3) judicial days following its entry, unless a review was ordered or requested. The chief judge of the juvenile court may establish requirements that any or all recommended orders of the referee must be expressly approved by the reviewing judge before becoming effective.

D. 1. Any party, as well as the Department of Human Services when the child is in the legal custody of the Department, may file a written objection to the referee's recommendations within three (3)

judicial days after notice of the recommendations. The objection shall clearly specify the reason and grounds for the objection. On receipt of the objection, the reviewing court shall set a hearing date for the review. The objecting party shall promptly provide a copy of the objection and notice of the review to the Department and all parties to the action. Failure to file a timely request for district court review shall constitute a waiver of any and all objections to the recommendations of the referee.

2. The review of the district court shall be limited to a review of the record developed before the referee.

3. The court shall accept the findings of fact of the referee unless they are clearly erroneous. After a review of the objection, the court may confirm or reconfirm the recommendations, reject, or modify them in whole or in part, receive further evidence, or remand them with instructions.

Added by Laws 1968, c. 282, § 126, eff. Jan. 13, 1969. Amended by Laws 1995, c. 352, § 45, eff. July 1, 1995. Renumbered from § 1126 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1999, c. 396, § 10, emerg. eff. June 10, 1999; Laws 2009, c. 233, § 57, emerg. eff. May 21, 2009. Renumbered from § 7003-8.6 of Title 10 by Laws 2009, c. 233, § 288, emerg. eff. May 21, 2009.

§10A-1-8-104. Mileage fees and witness reimbursement.

In proceedings pursuant to this Code, the court may allow mileage, as in civil actions, to witnesses and reimbursement for expert witnesses. However, any mileage and reimbursement paid in accordance with this section shall not be tendered in advance of the hearing.

Added by Laws 1968, c. 282, § 124, eff. Jan. 13, 1969. Amended by Laws 1976, c. 128, § 1, eff. Oct. 1, 1975; Laws 1982, c. 312, § 24, operative Oct. 1, 1982; Laws 1989, c. 363, § 9, eff. Nov. 1, 1989; Laws 1995, c. 352, § 41, eff. July 1, 1995. Renumbered from § 1124 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 2009, c. 233, § 53, emerg. eff. May 21, 2009. Renumbered from § 7003-8.2 of Title 10 by Laws 2009, c. 233, § 289, emerg. eff. May 21, 2009.

§10A-1-8-105. Penalties.

A willful violation of any provision of an order of the court issued under the provisions of this Code shall constitute indirect contempt of court, and shall be punishable as such. Punishment for any such act of contempt shall not exceed a fine of Three Hundred Dollars (\$300.00), or imprisonment in the county jail for more than thirty (30) days, or both such fine and imprisonment.

Added by Laws 1968, c. 282, § 122, eff. Jan. 13, 1969. Amended by Laws 1995, c. 352, § 42, eff. July 1, 1995. Renumbered from § 1122 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended

by Laws 2009, c. 233, § 54, emerg. eff. May 21, 2009. Renumbered from § 7003-8.3 of Title 10 by Laws 2009, c. 233, § 290, emerg. eff. May 21, 2009.

§10A-1-8-106. Applicability of the Oklahoma Minor Identification Act.

If a child is reported to a law enforcement agency as a missing child, or a custodial parent, legal guardian or legal custodian of a child requests the issuance of a fingerprint card, the provisions of the Oklahoma Minor Identification Act shall apply. With the voluntary and informed consent of the parent, legal guardian, or legal custodian of the child, fingerprints obtained and maintained pursuant to the Oklahoma Minor Identification Act may be used by law enforcement officers.

Added by Laws 1995, c. 352, § 62, eff. July 1, 1995. Amended by Laws 2009, c. 233, § 74, emerg. eff. May 21, 2009. Renumbered from § 7005-1.6 of Title 10 by Laws 2009, c. 233, § 291, emerg. eff. May 21, 2009.

§10A-1-8-107. Order for transportation of child by sheriff's office - Reimbursement.

A. The court may issue an order directing the county sheriff or his designee of the county in which the court is located to provide transportation to a child who is the subject of a deprived proceeding, regardless of where the child is placed within the state, for purposes of the following:

1. Transferring the child from his or her current placement to a designated inpatient treatment facility, as more further defined in the Inpatient Mental Health and Substance Abuse Treatment of Minors Act;

2. Transferring the child from the inpatient treatment facility to court for hearing;

3. Transferring the child from an out-of-county placement to court for hearing and returning the child back to the out-of-county placement; and

4. Assisting the Department of Human Services in transporting a child from any location to placement when requested by the Department for purposes of ensuring the safekeeping of the child as well as the Department employee.

B. 1. The Department shall provide reimbursement to the county sheriff or his designee for necessary and actual expenses for transporting the child as follows:

- a. a fee for the cost of personal services at the rate of Twelve Dollars (\$12.00) per hour,
- b. mileage reimbursement for each mile actually traveled at the rate established in the State Travel Reimbursement Act,

- c. meals for transporting personnel, not to exceed Seven Dollars (\$7.00) per meal, and
- d. meals for the child being transported, not to exceed Seven Dollars (\$7.00) per meal.

2. The Department shall process and mail reimbursement claims within sixty (60) days of receipt. Payments for services provided by the county sheriff's office shall be paid to the county and deposited in the sheriff's service fee account.

C. The court issuing the transportation order shall make such provision for the transportation and safekeeping of a child as is appropriate in the circumstances.

Added by Laws 2009, c. 233, § 137, emerg. eff. May 21, 2009.

§10A-1-8-108. Appointment of legal guardian - Appointment of guardian ad litem.

A. The court shall appoint a guardian ad litem of the estate of the child when necessary for the purpose of preserving the child's property rights, securing for the child any benefits to which the child may be entitled under social security programs, insurance, claims against third parties, and otherwise, and receiving and administering such funds or property for the care and education of the child.

1. When the child is in the emergency or temporary custody of the Department of Human Services, the court may appoint an attorney or a parent as guardian ad litem of the estate of the child.

2. When a child is in the permanent legal custody of the Department, the Director shall serve as the legal guardian of the estate of the child until an attorney guardian ad litem is appointed.

B. A copy of the order appointing a guardian ad litem shall be provided to the Department.

C. When the appointment of a guardian ad litem is necessary, the appointment may be made in the deprived case; provided, the actions of the guardian ad litem shall be subject to the approval of the court with jurisdiction to adjudicate the property interests of the child.

Added by Laws 1971, c. 248, § 1, emerg. eff. June 16, 1971. Amended by Laws 1995, c. 352, § 7, eff. July 1, 1995. Renumbered from § 1145 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 2009, c. 233, § 15, emerg. eff. May 21, 2009. Renumbered from § 7002-2.2 of Title 10 by Laws 2009, c. 233, § 292, emerg. eff. May 21, 2009.

§10A-1-8-109. Development of agency-wide process for background checks - Individual limits to number of children.

A. Unless prohibited by state or federal law, the Department shall develop, where feasible, an agency-wide process for conducting background checks, fingerprinting, and personal care applications.

B. The Department shall maintain limits on the number of children a person is authorized to care for; however, a person shall be permitted to provide multiple services where authorized.  
Added by Laws 2009, c. 338, § 21, eff. July 1, 2009.

§10A-1-8-110. Falsification of documents relating to deprived children proceedings - Penalties.

Any member of law enforcement, state employee, employee of a private employer, or any other individual that appears in a deprived child proceeding who knowingly and intentionally falsifies any document containing a material fact in any case in which a child has been alleged or adjudicated deprived that results in the great bodily harm or the death of the child shall, upon conviction, be guilty of a felony punishable by a fine of One Thousand Dollars (\$1,000.00) or by imprisonment in the custody of the Department of Corrections for up to two (2) years or by both such fine and imprisonment.  
Added by Laws 2012, c. 341, § 1, eff. Nov. 1, 2012.

§10A-1-8-111. Annual credit report for youth in custody.

A. The Department of Human Services shall provide each youth in its custody fourteen (14) years and older an annual credit report. The Department shall inform the court with jurisdiction over the youth of any inaccuracies in a credit report displaying evidence of identity theft or any other activity fraudulently made on behalf of the youth in custody. The Department may implement the requirements of this section in stages beginning with youth in the independent living program whose credit rating may inhibit employment and housing opportunities when the child is no longer in custody.

B. Within one (1) year of November 1, 2014, the Department of Human Services shall submit annual reports on the implementation of the provisions of this section to the Chair and Vice Chair of the Senate Health and Human Services Committee and the Chair and Vice Chair of the House Human Services Committee. Such reports shall include, but not be limited to, the number of youths in the Department's custody receiving credit score reports, the frequency of such reports and administrative issues faced by the Department in the implementation of this section. Such reports shall continue to be issued by the Department until November 1, 2018.

Added by Laws 2014, c. 143, § 1, eff. Nov. 1, 2014. Amended by Laws 2015, c. 189, § 1, eff. Nov. 1, 2015; Laws 2017, c. 342, § 6, eff. Nov. 1, 2017.

§10A-1-8-112. Private child-placing agencies - Objection to placement of a child based on religious or moral convictions or policies.

A. To the extent allowed by federal law, no private child-placing agency shall be required to perform, assist, counsel,

recommend, consent to, refer, or participate in any placement of a child for foster care or adoption when the proposed placement would violate the agency's written religious or moral convictions or policies.

B. The Department of Human Services shall not deny an application for an initial license or renewal of a license or revoke the license of a private child-placing agency because of the agency's objection to performing, assisting, counseling, recommending, consenting to, referring, or participating in a placement that violates the agency's written religious or moral convictions or policies.

C. A state or local government entity may not deny a private child-placing agency any grant, contract, or participation in a government program because of the agency's objection to performing, assisting, counseling, recommending, consenting to, referring, or participating in a placement that violates the agency's written religious or moral convictions or policies.

D. Refusal of a private child-placing agency to perform, assist, counsel, recommend, consent to, refer, or participate in a placement that violates the agency's written religious or moral convictions or policies shall not form the basis of a civil action.

E. Notwithstanding the provisions of this section, a private child-placing agency shall not refuse to perform any act otherwise required by state or federal law, or authorize any act otherwise prohibited by state or federal law. The provisions of this act shall not be construed to allow a private child-placing agency to refuse any services to a child in the custody of the Department.

Added by Laws 2018, c. 322, § 1, eff. Nov. 1, 2018.

#### §10A-1-9-101. Community-based programs.

The Oklahoma Commission on Children and Youth and the Oklahoma Youth Services Association, in cooperation with the Department of Human Services, shall:

1. Identify community-based prevention and intervention-related services and facilitate access to such services for children and families at risk of future abuse or neglect; and
2. Assist in the development and coordination of community-based programs that work to reduce the potential for abuse and neglect in at-risk families.

Added by Laws 1998, c. 416, § 13, eff. Nov. 1, 1998. Amended by Laws 2009, c. 233, § 82, emerg. eff. May 21, 2009. Renumbered from § 7105.1 of Title 10 by Laws 2009, c. 233, § 293, emerg. eff. May 21, 2009.

#### §10A-1-9-102. Multidisciplinary teams - Intervention in reports of abuse or neglect - Duties.

A. 1. In coordination with the Oklahoma Commission on Children and Youth, each district attorney shall develop a multidisciplinary child abuse team in each county of the district attorney or in a contiguous group of counties.

2. The lead agency for the team shall be chosen by the members of the team. The team shall intervene in reports involving child sexual abuse or child physical abuse or neglect.

B. The multidisciplinary child abuse team members shall include, but not be limited to:

1. Mental health professionals licensed pursuant to the laws of this state or licensed professional counselors;

2. Police officers or other law enforcement agents with a role in, or experience or training in child abuse and neglect investigation;

3. Medical personnel with experience in child abuse and neglect identification;

4. Child protective services workers within the Department of Human Services;

5. Multidisciplinary child abuse team coordinators, or Child Advocacy Center personnel; and

6. The district attorney or assistant district attorney.

C. 1. To the extent that resources are available to each of the various multidisciplinary child abuse teams throughout the state, the functions of the team shall include, but not be limited to, the following specific functions:

- a. whenever feasible, law enforcement and child welfare staff shall conduct joint investigations in an effort to effectively respond to child abuse reports,
- b. develop a written protocol for investigating child sexual abuse and child physical abuse or neglect cases and for interviewing child victims. The purpose of the protocol shall be to ensure coordination and cooperation between all agencies involved so as to increase the efficiency in handling such cases and to minimize the stress created for the allegedly abused child by the legal and investigatory process. In addition, each team shall develop confidentiality statements and interagency agreements signed by member agencies that specify the cooperative effort of the member agencies to the team,
- c. increase communication and collaboration among the professionals responsible for the reporting, investigation, prosecution and treatment of child abuse and neglect cases,
- d. eliminate duplicative efforts in the investigation and the prosecution of child abuse and neglect cases,

- e. identify gaps in service or all untapped resources within the community to improve the delivery of services to the victim and family,
- f. encourage the development of expertise through training. Each team member and those conducting child abuse investigations and interviews of child abuse victims shall be trained in the multidisciplinary team approach, conducting legally sound and age-appropriate interviews, effective investigation techniques and joint investigations as provided through the State Department of Health, the Commission on Children and Youth, or other resources,
- g. formalize a case review process and provide data as requested to the Commission for freestanding teams, and
- h. standardize investigative procedures for the handling of child abuse and neglect cases.

2. All investigations of child sexual abuse and child physical abuse or neglect and interviews of child abuse or neglect victims shall be carried out by appropriate personnel using the protocols and procedures specified in this section.

3. If trained personnel are not available in a timely fashion and, in the judgment of a law enforcement officer or the Department of Human Services, there is reasonable cause to believe a delay in investigation or interview of the child victim could place the child in jeopardy of harm or threatened harm to a child's health or welfare, the investigation may proceed without full participation of all personnel. This authority applies only for as long as reasonable danger to the child exists. A reasonable effort to find and provide a trained investigator or interviewer shall be made.

4. Freestanding multidisciplinary child abuse teams shall be approved by the Commission. The Commission shall conduct an annual review of freestanding multidisciplinary teams to ensure that the teams are functioning effectively. Teams not meeting the minimal standards as promulgated by the Commission shall be removed from the list of functioning teams in the state.

D. 1. A multidisciplinary child abuse team may enter into an agreement with the Child Death Review Board within the Oklahoma Commission on Children and Youth and, in accordance with rules promulgated by the Oklahoma Commission on Children and Youth, conduct case reviews of deaths and near deaths of children within the geographical area of that multidisciplinary child abuse team.

2. Any multidisciplinary child abuse team reviewing deaths and near deaths of children shall prepare and make available to the public, on an annual basis, a report containing a summary of the activities of the team relating to the review of the deaths and near deaths of children and a summary of the extent to which the state child protection system is coordinating with foster care and adoption

programs and whether the state is efficiently discharging its child protection responsibilities. The report shall be completed no later than December 31 of each year.

E. Nothing in this section shall preclude the use of hospital team reviews for client-specific purposes and multidisciplinary teams, either of which were in existence prior to July 1, 1995; provided, however, such teams shall not be subject to the provisions of paragraph 1 of subsection A of this section.

F. 1. Child advocacy centers shall be classified, based on the child population of a district attorney's district, as follows:

- a. nonurban centers in districts with child populations that are less than sixty thousand (60,000),
- b. midlevel nonurban centers in districts with child populations equal to or greater than sixty thousand (60,000), but not including Oklahoma and Tulsa Counties, and
- c. urban centers in Oklahoma and Tulsa Counties.

2. The multidisciplinary child abuse team used by the child advocacy center for its accreditation shall meet the criteria required by a national association of child advocacy centers and, in addition, the team shall:

- a. choose a lead agency for the team,
- b. intervene in reports involving child sexual abuse and may intervene in child physical abuse or neglect,
- c. promote the joint investigation of child abuse reports between law enforcement and child welfare staff, and
- d. formalize standardized investigative procedures for the handling of child abuse and neglect cases.

G. Multidisciplinary child abuse teams and child advocacy centers shall have full access to any service or treatment plan and any personal data known to the Department which is directly related to the implementation of this section.

H. Each member of the team shall be responsible for protecting the confidentiality of the child and any information made available to such person as a member of the team. The multidisciplinary team and any information received by the team shall be exempt from the requirements of Sections 301 through 314 of Title 25 of the Oklahoma Statutes and Sections 24A.1 through 24A.31 of Title 51 of the Oklahoma Statutes.

Added by Laws 1995, c. 353, § 10, eff. Nov. 1, 1995. Amended by Laws 1996, c. 200, § 13, eff. Nov. 1, 1996; Laws 1997, c. 386, § 11, emerg. eff. June 10, 1997; Laws 1998, c. 416, § 18, eff. Nov. 1, 1998; Laws 1999, c. 296, § 1, eff. July 1, 1999; Laws 2000, c. 38, § 1, emerg. eff. April 7, 2000; Laws 2000, c. 374, § 33, eff. July 1, 2000; Laws 2002, c. 487, § 2, eff. July 1, 2002; Laws 2003, c. 117, § 1, eff. Nov. 1, 2003; Laws 2005, c. 184, § 3, emerg. eff. May 17, 2005; Laws 2006, c. 258, § 5, emerg. eff. June 7, 2006; Laws 2009, c.

233, § 87, emerg. eff. May 21, 2009. Renumbered from § 7110 of Title 10 by Laws 2009, c. 233, § 294, emerg. eff. May 21, 2009. Amended by Laws 2013, c. 229, § 1, eff. Nov. 1, 2013; Laws 2019, c. 81, § 2, eff. Nov. 1, 2019.

§10A-1-9-103. Child Abuse Multidisciplinary Account.

A. 1. There is hereby created in the Department of Human Services a revolving fund to be designated the "Child Abuse Multidisciplinary Account".

2. The account shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Department pursuant to the provisions of this section and Section 1-9-104 of this title.

3. All monies accruing to the credit of the fund are hereby appropriated and shall be budgeted and expended by the Department for the purposes provided in Sections 1-9-102 and 1-9-104 of this title.

4. Expenditures from the account shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

B. The account shall be administered by the Department for the benefit of children of Oklahoma and made available to eligible:

1. Coordinated multidisciplinary child abuse teams;
2. Nonurban child advocacy centers;
3. Mid-level nonurban child advocacy centers; and
4. Urban child advocacy centers.

C. 1. The Child Abuse Multidisciplinary Account shall consist of:

- a. all monies received by the Department pursuant to the provisions of Section 1-9-104 of this title,
- b. interest attributable to investment of money in the Account, and
- c. money received by the Department in the form of gifts, grants, reimbursements, or from any other source intended to be used for the purposes specified or collected pursuant to the provisions of this section and Section 1-9-102 of this title.

2. The monies deposited in the Child Abuse Multidisciplinary Account shall at no time become monies of the state and shall not become part of the general budget of the Department or any other state agency. Except as otherwise authorized by this section and Section 3 of this act, no monies from the Account shall be transferred for any purpose to any other state agency or any account of the Department or be used for the purpose of contracting with any other state agency or reimbursing any other state agency for any expense.

Added by Laws 2000, c. 38, § 2, emerg. eff. April 7, 2000. Amended by Laws 2002, c. 487, § 3, eff. July 1, 2002; Laws 2009, c. 233, § 88, emerg. eff. May 21, 2009. Renumbered from § 7110.1 of Title 10 by Laws 2009, c. 233, § 295, emerg. eff. May 21, 2009. Amended by Laws 2012, c. 304, § 38; Laws 2015, c. 276, § 4, eff. Nov. 1, 2015.

§10A-1-9-103a. Child Abuse Multidisciplinary Team Account (CAMTA) Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma Commission on Children and Youth to be designated the "Child Abuse Multidisciplinary Team Account (CAMTA) Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Commission from any source as specified in paragraph 1 of subsection B of Section 3 of this act. All monies accruing to the credit of the fund are hereby appropriated and shall be budgeted and expended by the Commission for the purposes of contracting with eligible freestanding multidisciplinary child abuse teams. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 2015, c. 276, § 2, eff. Nov. 1, 2015.

§10A-1-9-103b. CAMTA Fund - Administration - Purpose - Contents of Fund.

A. The Child Abuse Multidisciplinary Team Account (CAMTA) Fund shall be administered by the Oklahoma Commission on Children and Youth for the benefit of children of Oklahoma and made available to eligible freestanding multidisciplinary child abuse teams.

B. 1. The fund shall consist of:

- a. all monies received by the Commission from state appropriations made for the purposes of contracting with eligible freestanding multidisciplinary child abuse teams,
- b. interest attributable to investment of money in the fund,
- c. money received by the Commission in the form of gifts, grants, reimbursements or from any other source intended to be used for the purposes of contracting with eligible freestanding multidisciplinary child abuse teams, and
- d. money received from the Child Abuse Multidisciplinary Account (CAMA) as established in Section 1-9-104 of Title 10A of the Oklahoma Statutes.

2. The monies deposited in the fund shall at no time become monies of the state and shall not become part of the general budget

of the Commission or any other state agency. Except as otherwise authorized by this section, no monies from the fund shall be transferred for any purpose to any other state agency or any account of the Commission or be used for the purpose of contracting with any other state agency or reimbursing any other state agency for any expense.

Added by Laws 2015, c. 276, § 3, eff. Nov. 1, 2015.

§10A-1-9-104. Allocation of monies in Child Abuse Multidisciplinary Account.

A. The Department of Human Services shall allocate monies available in the Child Abuse Multidisciplinary Account (CAMA) to:

1. The Child Abuse Multidisciplinary Team Account (CAMTA) Fund created by Section 1-9-103a of this title. Monies made available to the CAMTA shall be used for the purposes of funding one functioning freestanding multidisciplinary child abuse team in each county of this state, utilizing the funding distributions as provided in subsection B of this section;

2. One hospital team pursuant to subsection E of Section 1-9-102 of this title; and

3. One child advocacy center, accredited by the National Children's Alliance, per district attorney's district. A child advocacy center shall:

- a. be eligible for Child Abuse Multidisciplinary Account (CAMA) funding upon accreditation by the National Children's Alliance,
- b. secure a third-year interim review to determine whether the child advocacy center continues to meet the National Children's Alliance standards in effect at the time of its last accreditation. If a child advocacy center fails the third-year review, the center shall remain eligible for CAMA funding, but shall have another review conducted in the fourth year. If the child advocacy center fails the fourth-year review, the center shall be ineligible to receive CAMA funding until such time as the center receives reaccreditation from the National Children's Alliance, and
- c. remain the center for the district attorney's district as long as the center is accredited and eligibility is maintained pursuant to the provisions of Section 1-9-102 of this title. If a center does not remain eligible pursuant to the provisions of Section 1-9-102 of this title, endorsement by the district attorney as the child advocacy center for the district may be sought by any entity beginning with the calendar year after the center is determined to be ineligible. The two centers in district number (4) and district number

(13) that were accredited as of May 17, 2005, shall continue to receive funding at the nonurban level. Should one of the exempted centers close or no longer meet the criteria for a child advocacy center pursuant to the provisions of Section 1-9-102 of this title, the center shall not be allowed to reopen in that district or to receive CAMA funds. The remaining center shall become the sole child advocacy center for the district attorney's district.

B. Funding distribution pursuant to the provisions of this section shall be determined:

1. By multiplying the number of applicants in each category by the corresponding weight as follows:

- a. freestanding multidisciplinary child abuse team - 1,
- b. hospital team - 1,
- c. nonurban centers - 4,
- d. mid-level nonurban centers - 6, and
- e. urban centers - 24;

2. Adding together the weighted results for all categories;

3. Dividing the weighted result for each category by the sum of the weighted results for all categories; and

4. Equally distributing funding to each applicant in the corresponding category based on the amounts obtained by multiplying the total available funding by the calculated percentages. The total amount for all freestanding multidisciplinary teams as determined by the formula provided in this subsection shall be transferred to the Child Abuse Multidisciplinary Team Account (CAMTA) Fund established by Section 1-9-103a of this title and contracts with each freestanding multidisciplinary team shall be completed no later than January 1 of each year.

During state fiscal year 2019, the Oklahoma Commission on Children and Youth may disburse to each freestanding multidisciplinary team the remaining contracted amount of the freestanding multidisciplinary team award. The freestanding multidisciplinary team shall provide the Commission with monthly documentation of expenses as well as activity data and continue providing such documentation thereafter. Beginning January 1, 2020, and each year thereafter, the Commission may disburse the contracted amount at the beginning of the calendar year to freestanding multidisciplinary teams that are functioning effectively as determined by the Commission pursuant to Section 1-9-102 of this title.

C. By January 31, 2003, and by January 31 of each year thereafter, the Department shall disburse monies from the Child Abuse Multidisciplinary Account to eligible child advocacy centers. A child advocacy center shall be in compliance with the provisions of Section 1-9-102 of this title to be eligible for Child Abuse Multidisciplinary Account funding. The disbursement shall be a

single, annual disbursement, for the collection period of the preceding year beginning October 1 through September 30.

D. A report issued by the Oklahoma Commission on Children and Youth to the Oklahoma Legislature outlining performance measures for all multidisciplinary teams, including those associated with child advocacy centers, and recommendations on the funding formula provided for in this section shall be transmitted to the Oklahoma Legislature no later than December 31, 2017. The Department, the Commission, and the Children's Advocacy Centers of Oklahoma, Inc., shall meet annually to review and certify the amount of CAMA and CAMTA funds to be disbursed.

E. A child advocacy center may carry over funding for a period of one (1) year after allocation, such one-year period to begin in January and end in December of the same year; provided, however, funds not used within twenty-four (24) months of the original allocation will be deducted from the contract amount for the next contract year. If a center is ineligible for funding in an upcoming year, unused funds from the current or previous years shall be returned to the CAMA Fund for use in subsequent years. Funds not used by a freestanding team by the end of the contract period shall revert to, and be deposited in, the CAMA Fund.

F. The Commission is hereby authorized to receive five percent (5.0%) in administrative costs from the CAMTA Fund. The Department of Human Services is hereby authorized to receive one-half of one percent (0.5%) in administrative costs from the CAMA fund.

Added by Laws 2000, c. 38, § 3, emerg. eff. April 7, 2000. Amended by Laws 2002, c. 487, § 4, eff. July 1, 2002; Laws 2005, c. 184, § 4, emerg. eff. May 17, 2005; Laws 2006, c. 258, § 6, emerg. eff. June 7, 2006; Laws 2009, c. 233, § 89, emerg. eff. May 21, 2009. Renumbered from § 7110.2 of Title 10 by Laws 2009, c. 233, § 296, emerg. eff. May 21, 2009. Amended by Laws 2015, c. 276, § 5, eff. Nov. 1, 2015; Laws 2017, c. 256, § 1, eff. Nov. 1, 2017; Laws 2019, c. 416, § 1, emerg. eff. May 16, 2019.

§10A-1-9-104a. Contract with eligible providers.

The Oklahoma Commission on Children and Youth shall contract with eligible providers as authorized by this act.

Added by Laws 2015, c. 276, § 6, eff. Nov. 1, 2015.

§10A-1-9-104b. Promulgation of rules.

The Oklahoma Commission on Children and Youth and the Department of Human Services shall promulgate rules to implement the provisions of this act.

Added by Laws 2015, c. 276, § 7, eff. Nov. 1, 2015.

§10A-1-9-105. Program planning and monitoring.

A. The Department of Human Services shall carefully define the children and youth programs of the Department as to their purpose, the population served, and performance expectations. Planning for new programs and services and major modifications to existing ones shall include evaluation of their effect on other programs and services and communication and coordination with other public and private children and youth service providers in order to assure successful and cost-effective implementation of the program. An evaluation component that includes monitoring and evaluation of client outcomes shall be incorporated into all of the Department's programs and services to children and youth, whether provided directly by the agency or through a contract.

1. All programs and services shall be designed to ensure the accessibility of the program to the persons served. Provision for transportation, child care and similar services necessary in order to assist persons to access the services shall be made. If the service is provided in an office setting, the service shall be available during the evening.

2. Programs and services shall be targeted to the areas of the state having the greatest need for them. The programs and services shall be designed to meet the needs of the area in which they are located. Programs and services intended for statewide implementation shall be implemented first in those areas that have the greatest need for them.

3. As a part of the Department's program planning and monitoring processes, the Department shall examine its programs and services to children and youth to ensure that the practices within them do not operate to detriment of minority children and youth.

4. All child care services and facilities operated by the Department shall be accredited by the National Council on Accreditation, when applicable.

B. The Department shall develop a five-year plan for children and youth services provided by the agency. The plan shall be reviewed annually and modified as necessary. Agency budget recommendations of the Department for services to children and youth shall be based upon documented needs, and the development of budget recommendations and priorities shall be closely integrated with agency and interagency program planning and management.

C. The Department shall annually review its programs and services and submit a report to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Supreme Court of the State of Oklahoma, analyzing and evaluating the effectiveness of the programs and services being carried out by the Department. Such report shall include, but not be limited to:

1. An analysis and evaluation of programs and services continued, established and discontinued during the period covered by the report;
2. A description of programs and services which should be implemented;
3. Statutory changes necessary;
4. Relevant information concerning the number of children in the Department's custody during the period covered by the report; and
5. Such other information as will enable a user of the report to ascertain the effectiveness of the Department's programs and services.

D. The Department shall, on or before January 31 of each year, submit a report to the Governor, President Pro Tempore of the Senate, Speaker of the House of Representatives and the Oklahoma Supreme Court which shall include:

1. Information concerning the number of children in the Department's custody that are placed in nonfamily settings, including but not limited to the types of settings utilized and the duration of the children's stays in such settings;

2. A census of approved foster homes and the number of children placed in those homes and a comparative review of foster home room-and-board rates; and

3. Information concerning child welfare staff workloads and comparative salaries for such staff.

Added by Laws 1991, H.J.R. No. 1038, § 3, p. 3201, emerg. eff. May 28, 1991. Amended by Laws 1995, c. 352, § 49, eff. July 1, 1995. Renumbered from § 603.3 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 2009, c. 233, § 61, emerg. eff. May 21, 2009. Renumbered from § 7004-1.3 of Title 10 by Laws 2009, c. 233, § 297, emerg. eff. May 21, 2009. Amended by Laws 2017, c. 342, § 7, eff. Nov. 1, 2017.

#### §10A-1-9-106. Kinship Foster Care Program.

A. There is hereby established a Kinship Foster Care Program in the Department of Human Services.

B. The Department shall establish, in accordance with the provisions of this section, standards for becoming a kinship foster care family.

C. 1. When a child has been removed from the child's home and is in the care and custody of the Department, the Department shall attempt to place the child with a person determined by the Department to have a kinship relationship with the child if such placement is in the best interests of the child.

2. In determining a kinship placement for a child who has been removed from the custody of a custodial parent and placed with the Department in emergency or protective custody, priority shall be given by the Department to the placement of the child with the

noncustodial parent of the child unless such placement is not in the best interests of the child. If it is determined by the Department that placement with the noncustodial parent is not in the best interests of the child, placement shall be consistent with the provisions of Section 1-4-204 of this title. The health, safety, or welfare of a child shall be of paramount concern in any placement.

D. 1. Upon the completion of the records search to ascertain if there is an Oklahoma record of criminal history for the prospective kinship foster parent or any other adult residing in the prospective kinship foster parent's home, and subject to any other standards established by law or by the Department, a child may be placed in the kinship home. A kinship foster parent shall not be entitled to any payments for providing foster care until such foster parent receives final approval from the Department to be a kinship foster parent.

2. Following placement, the Oklahoma State Bureau of Investigation shall complete a national criminal history records search based upon submission of fingerprints for any kinship foster parent and any adult residing in the home of such parent, and shall make the results of the records search available to the Department pursuant to the provisions of the Oklahoma Child Care Facilities Licensing Act, and applicable state and federal law. The Director of Human Services or designee may authorize an exception to the fingerprinting requirement for an adult residing in the kinship foster care home who has a severe physical condition which precludes the person from being fingerprinted.

3. The Department shall maintain the confidentiality of the records search results and shall use the results only for purposes of determining a person's eligibility to become a kinship foster parent.

4. It shall be unlawful, except for the purpose of determining a person's eligibility for kinship foster care, for any person to disclose information obtained under this subsection.

5. Any person violating the provisions of this subsection shall be guilty of a misdemeanor.

E. A person related by blood, marriage, adoption, and by tie or bond to a child, and/or to whom has been ascribed a family relationship role with the child's parents or the child may be eligible for approval as a kinship foster care parent.

F. The Department shall determine whether the person is able to effectively care for the foster child by:

1. Reviewing personal and professional references;

2. Observing during a visit to the home of the kinship foster care family; and

3. Interviewing the kinship foster care parent.

G. 1. When the kinship foster parent is finally approved by the Department, in accordance with applicable state and federal law and rules promulgated by the Commission for Human Services regarding foster care services, the kinship foster care family shall be

eligible to receive payment for the full foster care rate for the care of the child and any other benefits that might be available to foster parents, whether monetary or in services.

2. If a child is placed with a kinship foster parent prior to the home's final approval as a foster care home, the Department shall immediately refer the child and family for assistance through the Temporary Assistance for Needy Families Program.

H. 1. The Department and the kinship foster care parent shall develop a plan for the care of the child, which shall be periodically reviewed and updated.

2. The kinship foster parent shall cooperate with any activities specified in the case plan for the child including, but not limited to, counseling, therapy, court sessions, visits with the child's parents or other family members, and training.

I. The Commission for Human Services shall promulgate rules necessary to carry out the provisions of this section.

Added by Laws 1996, c. 353, § 25, eff. Nov. 1, 1996. Amended by Laws 1998, c. 421, § 29, emerg. eff. June 11, 1998; Laws 1999, c. 2, § 2, emerg. eff. March 3, 1999; Laws 2000, c. 374, § 24, eff. July 1, 2000; Laws 2001, c. 141, § 5, emerg. eff. April 30, 2001; Laws 2009, c. 233, § 62, emerg. eff. May 21, 2009. Renumbered from § 7004-1.5 of Title 10 by Laws 2009, c. 233, § 298, emerg. eff. May 21, 2009.

§10A-1-9-107. Successful Adulthood Act - Short title - Purpose.

A. This section shall be known and may be cited as the "Successful Adulthood Act".

B. The purpose of the Successful Adulthood Act shall be:

1. To ensure that eligible individuals, who have been or are in the foster care program of the Department of Human Services or a federally recognized Indian tribe with whom the Department has a contract, due to abuse or neglect, receive the protection and support necessary to allow those individuals to become self-reliant and productive citizens through the provision of requisite services that include, but are not limited to, transitional planning, housing, medical coverage, and education; provided, that eligibility for tuition waivers shall be as set forth in Section 3230 of Title 70 of the Oklahoma Statutes;

2. To break the cycle of abuse and neglect that obligates the state to assume custody of children; and

3. To help children who have experienced foster care at age fourteen (14) or older achieve meaningful permanent connections with a caring adult.

C. An individual is eligible to receive services for the transition of the child to a successful adulthood from the age of fourteen (14) until the age of eighteen (18), during the time the individual is in the custody of the Department or a federally recognized Indian tribe and in an out-of-home placement.

D. The permanency plan for the child in transition to a successful adulthood shall be developed in consultation with the child and, at the option of the child, with up to two members of the permanency planning team to be chosen by the child, excluding the foster parent and caseworker for the child, subject to the following provisions:

1. One individual selected by the child may be designated to be the advisor and, as necessary, advocate of the child, with respect to the application of the reasonable and prudent parent standard to the child; and

2. The Department may reject an individual selected by the child to be a member of the permanency planning team at any time if the Department has good cause to believe that the selected individual would not act in the best interests of the child.

E. 1. Each child in foster care under the responsibility of the Department or a federally recognized Indian tribe and in an out-of-home placement, who has attained fourteen (14) years of age shall be given a written Notice of Rights that describes the following specific rights of the child:

- a. the rights of the child with respect to education, health, visitation, and court participation,
- b. the right to be provided with the documents specified in subsection F of this section, and
- c. the right to stay safe and avoid exploitation.

2. The child shall sign an acknowledgment stating that the child has been provided with a copy of the Notice of Rights and that the rights described in the notice have been explained to the child in an age-appropriate way.

F. A child about to leave foster care by reason of having attained eighteen (18) years of age and who has been in foster care for at least six (6) months shall be given the following documents pertaining to the child:

1. An official or certified copy of the United States birth certificate;
2. A Social Security card issued by the Commissioner of Social Security;
3. Health insurance information;
4. A copy of the medical records of the child;
5. A state-issued driver license or identification card; and
6. Official documentation necessary to show that the child was previously in foster care.

G. Successful adulthood services may continue to the age of twenty-one (21), provided the individual is in the custody of the Department or a federally recognized Indian tribe due to abuse or neglect and is in an out-of-home placement at the time of the individual's eighteenth birthday.

H. Individuals who are sixteen (16) years of age or older, who have been released from the custody of the Department or federally recognized Indian tribe due to the entry of an adoption decree or guardianship order are eligible to receive successful adulthood services until the age of twenty-one (21).

I. Individuals who are eligible for services pursuant to the Successful Adulthood Act and who are between eighteen (18) and twenty-one (21) years of age shall be eligible for Medicaid coverage, provided such individuals were also in the custody of the Department or a federally recognized Indian tribe on the date they reached eighteen (18) years of age and meet Medicaid financial eligibility guidelines.

J. The Department, in conjunction with the Oklahoma State Regents for Higher Education, shall provide parents and legal guardians of foster youth with information on the Oklahoma Higher Learning Access Program (OHLAP) including, but not limited to, eligibility, application guidelines, academic requirements, and any other information required by the Oklahoma Higher Learning Access Act for participation in the Program.

Added by Laws 2000, c. 374, § 38, eff. July 1, 2000. Amended by Laws 2001, c. 415, § 3, emerg. eff. June 5, 2001; Laws 2009, c. 233, § 63, emerg. eff. May 21, 2009. Renumbered from § 7004-1.6 of Title 10 by Laws 2009, c. 233, § 299, emerg. eff. May 21, 2009. Amended by Laws 2010, c. 324, § 4, emerg. eff. June 5, 2010; Laws 2015, c. 53, § 1, eff. Nov. 1, 2015; Laws 2015, c. 173, § 9, eff. Nov. 1, 2015; Laws 2019, c. 243, § 2, eff. Nov. 1, 2019.

NOTE: Editorially renumbered from § 7004.16 of Title 10 to provide consistency in numbering.

§10A-1-9-108. Pilot program to serve children at high risk of abuse and neglect.

A. A pilot program to serve children at high risk of abuse and neglect shall be established by the Department of Human Services in consultation with an evaluation team created pursuant to this section if funds are available.

B. The pilot program shall:

1. Identify the populations of children at high risk of abuse and neglect and the characteristics of those children including, but not limited to, populations in which parental drug and/or alcohol abuse, mental illness, mental and/or physical disability, and domestic abuse are an issue;

2. Develop and design programs to provide services to children at high risk of abuse and neglect;

3. Develop methods for coordinating state and local services to assist high risk children and their families;

4. Allow and provide for participation of both urban and rural concerns in developing and designing such programs;

5. Monitor, evaluate, and review the programs implemented to serve populations of children at high risk of abuse and neglect; and

6. Include such other areas, programs, services, and information deemed necessary by the Department to provide a comprehensive assessment of the needs and programs necessary to provide assistance to children at high risk of abuse and neglect.

C. An evaluation team shall determine the effectiveness of the pilot program, and make a report to the Legislature and to the Department annually for as long as the program is funded. Such report shall cover:

1. Effective programs that will serve children that are at high risk of abuse and neglect;

2. Statewide expansion of programs;

3. Funding sources;

4. Training of professionals to serve such populations;

5. Monitoring, evaluating and reviewing continued effectiveness of such programs;

6. Special needs of children at risk of abuse and neglect from parental addiction to drugs and alcohol and parental mental illness and mental and/or physical disability and from domestic abuse; and

7. Recommendations regarding the issuance of grants and contracts for serving such high-risk populations.

D. The evaluation team shall consist of not more than two representatives from the following entities who have expertise in child abuse prevention or a related field and who have an understanding of program evaluation techniques:

1. The Department of Human Services;

2. The Department of Mental Health and Substance Abuse Services;

3. The Oklahoma Commission on Children and Youth;

4. The Oklahoma Indian Affairs Commission;

5. The Oklahoma Institute for Child Advocacy;

6. The Oklahoma Court-Appointed Special Advocate Association;

7. The University of Oklahoma; and

8. Oklahoma State University.

E. 1. Upon receipt of recommendations from the evaluation team established pursuant to this section, which indicate that the expansion of the pilot project on a statewide basis would be economically feasible and practical, the Commission for Human Services shall promulgate rules for developing a statewide program serving populations of children at high risk of abuse and neglect, provided funding is available for such expansion.

2. Upon promulgation of rules by the Commission, the provisions of this section shall become effective statewide.

F. The Department may:

1. Contract for services necessary to carry out the duties of the Department pursuant to the provisions of this section; and

2. Accept the services of volunteer workers or consultants and reimburse them for their necessary expenses pursuant to the State Travel Reimbursement Act.

Added by Laws 2001, c. 356, § 1, emerg. eff. June 4, 2001. Amended by Laws 2009, c. 233, § 64, emerg. eff. May 21, 2009. Renumbered from § 7004-1.7 of Title 10 by Laws 2009, c. 233, § 300, emerg. eff. May 21, 2009.

§10A-1-9-109. Performance-based incentive compensation program for child welfare specialists.

The Department of Human Services shall maintain a performance-based incentive compensation program for employees exclusively working as child welfare specialists. All full-time child welfare specialists shall be eligible to participate in the performance-based incentive compensation program. Eligibility factors shall include, but not be limited to, child welfare specialists who have met or exceeded the suggested federal child welfare outcomes, received "exceeds standards" employee evaluations, as defined by the Office of Management and Enterprise Services, completed Department-sponsored field training, and obtained an advanced higher education degree in social work or closely related field. The eligibility of a child welfare specialist shall not be based upon the level of seniority that has been obtained by the child welfare specialist. The Oklahoma Commission for Human Services shall promulgate rules as necessary to implement the provisions of this section.

Added by Laws 2006, c. 205, § 7, eff. Nov. 1, 2006. Amended by Laws 2008, c. 159, § 4, emerg. eff. May 12, 2008; Laws 2009, c. 233, § 65, emerg. eff. May 21, 2009. Renumbered from § 7004-1.8 of Title 10 by Laws 2009, c. 233, § 301, emerg. eff. May 21, 2009. Amended by Laws 2012, c. 304, § 39.

§10A-1-9-110. Community-based services and care for deprived children - Grants and contracts.

A. 1. The Department of Human Services shall, to the extent of funds available, directly or by grant or contract, develop and implement a diversity of community-based services and community-based care for children who are alleged or adjudicated deprived. Community-based services are prevention and remedial services including, but not limited to:

- a. home-based counseling, therapy, and crisis intervention services,
- b. nonresidential educational, vocational, social and psychological diagnostic and counseling services,
- c. substance abuse treatment, sexual abuse treatment, emergency shelter and foster care, and other related protection, prevention and treatment services which are

provided, whenever practicable, in or near a child's home community.

2. If a child is placed with a noncustodial parent, the noncustodial parent's home shall be construed to be the child's home community. Community-based care is care in a foster home, group home, community residential center or similar nonsecure facility consistent with the individualized treatment needs of the child and provided, whenever practicable, in or near a child's home community.

3. The Department is authorized to contract with any federal, state, local, or tribal governmental agency, or with any qualified private person, association, or agency to develop, administer, coordinate, or provide community-based services and community-based care.

B. The Department shall establish procedures for the letting of grants or contracts, and the conditions and requirements for the receipt of such grants or contracts, for community-based services and community-based care. A copy of the procedures shall be made available to any member of the general public upon request.

C. Requests for proposals developed by the Department shall be based upon documented client and service needs and identified priorities. The request for proposals shall clearly identify the program or services requirements, the population to be served, and performance expectations. The agency shall adopt clear, written guidelines to ensure uniformity in the management, monitoring, and enforcement of contracts for services. If in-state private providers are unable or unwilling to respond to the proposal, then out-of-state providers should be encouraged to respond.

D. Nothing in this section shall serve to limit the authority of the Department to secure federal funding for community-based services and community-based care or compliance by the Department with federal law and regulations governing the expenditure of such funds.

E. Any state-funded grant or contract for the establishment of community residential care or treatment facilities for children shall require, as a condition for receipt of such grant or contract, documented assurance from the agency or organization establishing such facility that appropriate arrangements have been made for providing the educational services to which residents of the facility are entitled pursuant to state and federal law.

F. The Department is authorized to, and shall, enter into cooperative agreements with the Department of Juvenile Justice for the use by both Departments of existing community-based programs, management information, and client tracking systems, and other shared resources as deemed necessary or appropriate by both Departments.

G. 1. The Department is authorized to expend a sum not to exceed One Million Four Hundred Thousand Dollars (\$1,400,000.00) from monies appropriated for that purpose from the Human Services Fund during each fiscal year for the purpose of:

- a. providing subsidy payments to licensed nonprofit child care institutions within the State of Oklahoma to furnish food, clothing, shelter, and upkeep for Oklahoma children, and
- b. assisting the agency in developing a more comprehensive program to meet the needs of each child in the program including, but not limited to, social services, recreational activities and individual and family counseling with the goal of returning the child to his or her family.

2. Such subsidy shall be made on a per capital basis not to exceed One Thousand Two Hundred Dollars (\$1,200.00) per year and shall be expended in twelve (12) monthly payments beginning July 1 of the fiscal year. Nothing in this section shall preclude an individual from receiving federal matching funds for which he would otherwise be eligible.

Added by Laws 1995, c. 352, § 51, eff. July 1, 1995. Amended by Laws 2001, c. 141, § 6, emerg. eff. April 30, 2001; Laws 2009, c. 233, § 66, emerg. eff. May 21, 2009. Renumbered from § 7004-2.1 of Title 10 by Laws 2009, c. 233, § 302, emerg. eff. May 21, 2009.

§10A-1-9-111. Management, operation and use of children's shelters.

A. 1. The Department of Human Services is authorized to manage and operate and may contract with designated youth services agencies or designated child-placing agencies for the management and operation of the children's shelter located in Oklahoma City, known and designated as the Pauline Mayer Children's Shelter, and the children's shelter located in Tulsa, known and designated as the Laura Dester Children's Shelter. The Department shall implement a plan to transition the use of shelters from a placement for children taken into custody into an alternative purpose to be determined by the Department. Kinship care homes and emergency foster care homes shall be utilized for the care of children instead of a shelter whenever possible. The Department shall monitor and report to the Legislature and Governor on a monthly basis the daily average shelter population and the number of kinship care homes utilized and the total number of emergency foster care homes available by county.

2. Subject to the availability of suitable placements, no child in the custody of the Department of Human Services:

- a. six (6) years of age or younger shall be placed in shelter care after June 30, 2013, or
- b. thirteen (13) years of age or younger shall be placed in shelter care after June 30, 2014.

3. The Department is authorized to manage and operate, to the extent of funds available, and may contract with designated youth services agencies or child-placing agencies for the management and operation of such group homes as may be necessary to provide a

diversity of placement alternatives for children adjudicated deprived and placed in the custody of the Department. The Department shall, prior to awarding a contract to a facility for the purposes of this paragraph, ensure that such facility provides continuing education to its employees in the area of cultural competency. Such continuing education shall include, at a minimum, instruction on the problems of race and gender-based disparities faced by youths in group homes.

B. The Commission for Human Services shall establish and maintain methods of administration, including those necessary to establish and maintain a merit system of personnel administration, and shall prescribe rules necessary for the efficient and effective operation of the children's facilities operated by the Department.

C. 1. The Director of the Department shall employ and fix the duties and compensation of a director or supervisor, and other personnel necessary, for each of the children's facilities operated by the Department.

2. The Department shall promulgate, and in its hiring and employment practices, the Department shall adhere to, written minimum qualifications by position for personnel working with or around children in such facilities. Minimum qualifications shall be designed to assure that:

- a. personnel possess sufficient education, training, experience, and background to provide adequate and safe professional care and services to children, and
- b. children will not be exposed to abuse, deprivation, criminal conduct, or other unwholesome conditions attributable to employee incompetence or misconduct.

D. 1. It shall be the duty of the State Fire Marshal and the State Commissioner of Health to cause annual unannounced inspections of children's facilities operated by the Department, utilizing adequately trained and qualified inspection personnel, to determine and evaluate conditions in their respective areas of agency jurisdiction.

2. Inspections shall include, but not be limited to, compliance with:

- a. minimum fire, life, and health safety standards, and
- b. minimum standards governing general sanitation of the institution.

3. Reports of inspections shall be made in writing, itemizing and identifying any deficiencies, and recommending corrective measures, and shall be filed with the Department, the Office of Juvenile System Oversight, and the Commission on Children and Youth.

4. The Department shall file copies of the reports of the inspections and recommendations of the accrediting agencies with the Office of Juvenile System Oversight.

E. 1. The Department may:

- a. give assistance to local school districts in providing an education to children in facilities operated by the Department,
- b. supplement the education, and
- c. provide facilities for such purposes.

2. It shall be the duty of the Department to assure that children in the facilities receive educational services which will stress basic literacy skills including, but not limited to, curricula requirements stressing reading, writing, mathematics, science, and vocational-technical education.

Added by Laws 1968, c. 282, § 403, eff. Jan. 13, 1969. Amended by Laws 1982, c. 312, § 33, operative July 1, 1982; Laws 1995, c. 352, § 52, eff. July 1, 1995. Renumbered from § 1403 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 2009, c. 233, § 67, emerg. eff. May 21, 2009. Renumbered from § 7004-3.1 of Title 10 by Laws 2009, c. 233, § 303, emerg. eff. May 21, 2009. Amended by Laws 2009, c. 338, § 9, eff. July 1, 2009; Laws 2012, c. 353, § 6, emerg. eff. June 8, 2012; Laws 2014, c. 137, § 1, eff. Nov. 1, 2014.

§10A-1-9-112.1. Investigation of reported abuse or neglect - Written response.

A. In addition to the requirements of Section 1-9-112 of Title 10A of the Oklahoma Statutes, the investigation report of the Office of Client Advocacy concerning a report of abuse or neglect of a child in the legal custody of the Department of Human Services shall also be submitted to the Children and Family Services Division Director, or designee, within thirty (30) days from the date of the referral.

B. The Office of Client Advocacy investigation of a report of abuse or neglect of a child in the custody of the Department shall result in a written response within thirty (30) days from the date of the referral stating one of the following findings:

1. "Substantiated" means the Office of Client Advocacy has determined, after an investigation of a report of child abuse or neglect of a child in Department of Human Services custody and based upon some credible evidence, that child abuse or neglect occurred;

2. "Unsubstantiated" means the Office of Client Advocacy has determined, after an investigation of a report of child abuse or neglect of a child in Department of Human Services custody, that insufficient evidence exists to fully determine whether child abuse or neglect occurred; or

3. "Ruled out" means the Office of Client Advocacy has determined, after an investigation of a report of child abuse or neglect of a child in Department of Human Services custody, that no child abuse or neglect occurred.

Added by Laws 2012, c. 353, § 8, eff. Jan. 1, 2013.

§10A-1-9-112. Office of Client Advocacy.

A. 1. The Director of Human Services is authorized and directed to establish the Office of Client Advocacy within the Department of Human Services and to employ personnel necessary to carry out the purposes of this section and the duties listed in this section. Personnel may be dismissed only for cause.

2. The chief administrative officer of the Office of Client Advocacy shall be the Advocate General, who shall be an attorney. The Advocate General shall be a member of the Oklahoma Bar Association and shall have a minimum of three (3) years' experience as an attorney. The compensation of the Advocate General shall be no less than that of the classification of Attorney III as established in the Merit System of Personnel Administration classification and compensation plan, but shall be an unclassified position.

3. The duties and responsibilities of the Advocate General are to:

- a. supervise personnel assigned to the Office of Client Advocacy,
- b. monitor and review grievance procedures and hearings,
- c. establish and maintain a fair, simple, and expeditious system for resolution of grievances of:
  - (1) all children in the custody of the Department of Human Services regarding:
    - (a) the substance or application of any written or unwritten policy or rule of the Department or agent of the Department, or
    - (b) any decision or action by an employee or agent of the Department, or of any child in the custody of the Department,
  - (2) foster parents relating to the provision of foster care services pursuant to this section and Section 1-9-117 of this title, and
  - (3) all persons receiving services from the Developmental Disabilities Services Division of the Department of Human Services,
- d. investigate allegations of abuse, neglect, sexual abuse, and sexual exploitation, as those terms are defined in the Oklahoma Children's Code, by a person responsible for a child, regardless of custody:
  - (1) residing outside their own homes other than children in foster care or children in the custody of the Office of Juvenile Affairs and placed in an Office of Juvenile Affairs secure facility,
  - (2) in a day treatment program as defined in Section 175.20 of Title 10 of the Oklahoma Statutes, and submit a report of the results of the

- investigation to the appropriate district attorney and to the State Department of Health,
- (3) receiving services from a community services worker as that term is defined in Section 1025.1 of Title 56 of the Oklahoma Statutes, and
  - (4) residing in a state institution listed in Section 1406 of Title 10 of the Oklahoma Statutes,
- e. establish a system for investigating allegations of misconduct, by a person responsible for a child, not rising to the level of abuse, neglect, sexual abuse, or sexual exploitation with regard to any child or resident listed in subparagraph d of this paragraph,
  - f. coordinate any hearings or meetings of Departmental administrative review committees conducted as a result of unresolved grievances or as a result of investigations,
  - g. make recommendations to the Director, and provide regular or special reports regarding grievance procedures, hearings and investigations to the Director, the Commission, the Office of Juvenile System Oversight and other appropriate persons as necessary,
  - h. forward to the Office of Juvenile System Oversight, for the information of the Director of that office, a copy of the final report of any grievance which is not resolved in the favor of the complainant,
  - i. perform such other duties as required by the Director of the Department or the Commission, and
  - j. develop policies and procedures as necessary to implement the duties and responsibilities assigned to the Office of Client Advocacy.

B. The Office of Client Advocacy shall make a complete written report of their investigations. The investigation report, together with its recommendations, shall be submitted to the appropriate district attorney's office.

C. 1. Except as otherwise provided by the Oklahoma Children's Code, the reports required by Section 1-2-101 of this title or any other information acquired pursuant to the Oklahoma Children's Code shall be confidential and may be disclosed only as provided in Section 1-2-108 of this title and the Oklahoma Children's Code.

2. Except as otherwise provided by the Oklahoma Children's Code, any violation of the confidentiality requirements of the Oklahoma Children's Code shall, upon conviction, be a misdemeanor punishable by up to six (6) months in jail, by a fine of Five Hundred Dollars (\$500.00), or by both such fine and imprisonment.

3. Any records or information disclosed as provided by this subsection shall remain confidential. The use of any information shall be limited to the purpose for which disclosure is authorized.

Rules promulgated by the Commission for Human Services shall provide for disclosure of relevant information concerning Office of Client Advocacy investigations to persons or entities acting in an official capacity with regard to the subject of the investigation.

4. Nothing in this section shall be construed as prohibiting the Office of Client Advocacy or the Department from disclosing such confidential information as may be necessary to secure appropriate care, treatment, or protection of a child alleged to be abused or neglected.

D. 1. The Office of Client Advocacy shall investigate any complaint received by the Office of Juvenile System Oversight alleging that an employee of the Department or a child-placing agency has threatened a foster parent with removal of a child from the foster parent, harassed a foster parent, or refused to place a child in a licensed or certified foster home, or disrupted a child placement as retaliation or discrimination towards a foster parent who has:

- a. filed a grievance pursuant to Section 1-9-120 of this title,
- b. provided information to any state official or Department employee, or
- c. testified, assisted, or otherwise participated in an investigation, proceeding, or hearing against the Department or child-placing agency.

2. The provisions of this subsection shall not apply to any complaint by a foster parent regarding the result of a criminal, administrative, or civil proceeding for a violation of any law, rule, or contract provision by that foster parent, or the action taken by the Department or a child-placement agency in conformity with the result of any such proceeding.

3. The Office of Client Advocacy shall at all times be granted access to any foster home or any child-placing agency which is certified, authorized, or funded by the Department.

Added by Laws 1982, c. 312, § 36, operative July 1, 1982. Amended by Laws 1995, c. 352, § 55, eff. July 1, 1995. Renumbered from § 1403.3 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1996, c. 3, § 3, emerg. eff. March 6, 1996; Laws 1997, c. 389, § 7, eff. Nov. 1, 1997; Laws 2000, c. 374, § 25, eff. July 1, 2000; Laws 2001, c. 415, § 4, emerg. eff. June 5, 2001; Laws 2002, c. 445, § 6, eff. Nov. 1, 2002; Laws 2009, c. 233, § 69, emerg. eff. May 21, 2009. Renumbered from § 7004-3.4 of Title 10 by Laws 2009, c. 233, § 304, emerg. eff. May 21, 2009. Amended by Laws 2010, c. 220, § 2, emerg. eff. May 6, 2010; Laws 2012, c. 353, § 7, emerg. eff. June 8, 2012; Laws 2014, c. 257, § 3, eff. Nov. 1, 2014.

NOTE: Laws 1995, c. 231, § 2 repealed by Laws 1996, c. 3, § 25, emerg. eff. March 6, 1996.

§10A-1-9-113. Provision of shelter and care to minor mothers who are victims of domestic abuse.

A. A youth service shelter facility may provide shelter and care to a minor mother, who is the victim of domestic abuse or is seeking relief from domestic abuse for herself or on behalf of any of her children or both herself and any of her children.

B. A youth service shelter facility may provide such shelter or care only during an emergency constituting an immediate danger to the physical health or safety of the minor mother or any of her children or both the minor mother and any of her children. Such shelter or care shall not extend beyond thirty (30) days unless the facility receives an order issued by a court to continue services or the parent or guardian of the minor mother consents to services.

C. The provisions of Section 856 of Title 21 of the Oklahoma Statutes shall not apply to any youth service shelter facility and any person operating such facility with regards to providing shelter and care pursuant to the provisions of this section to a minor mother and any of her children who is a runaway from her parent or legal guardian.

D. The show cause hearing provided for in Article IV of this Code shall be provided for the minor mother, who is seeking relief from domestic abuse for herself or on behalf of any of her children. Added by Laws 1989, c. 157, § 1, emerg. eff. May 8, 1989. Amended by Laws 1995, c. 352, § 56, eff. July 1, 1995. Renumbered from § 607.1 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 2009, c. 233, § 70, emerg. eff. May 21, 2009. Renumbered from § 7004-3.5 of Title 10 by Laws 2009, c. 233, § 305, emerg. eff. May 21, 2009.

§10A-1-9-114. Recruitment of foster parents from child's relatives or from families of same minority racial or ethnic heritage.

A. The Department of Human Services and each child-placing agency shall make special efforts to recruit foster parents for children in their custody from suitable relatives and kin of the child, and shall make diligent efforts to recruit foster and adoptive families that reflect the ethnic and racial diversity of children for whom foster and adoptive homes are needed. Provided, however, no person shall be denied the opportunity to become a foster or adoptive parent on the basis of the race, color, or national origin of the person, or of the child involved. No child shall be delayed or denied placement into foster care or adoption on the basis of the race, color, or national origin of the adoptive or foster parent, or of the child involved.

B. Diligent efforts to recruit shall include, but shall not be limited to, contracting and working with community organizations and religious organizations, utilizing local media and other local resources, conducting outreach activities, and increasing the number

of minority recruitment staff employed by the Department and the child-placing agency.

Added by Laws 1996, c. 353, § 10, eff. Nov. 1, 1996. Amended by Laws 2001, c. 415, § 14, emerg. eff. June 5, 2001; Laws 2009, c. 233, § 102, emerg. eff. May 21, 2009. Renumbered from § 7210 of Title 10 by Laws 2009, c. 233, § 306, emerg. eff. May 21, 2009.

§10A-1-9-115. Foster parent associations - State agencies to cooperate and promote development.

The Department of Human Services shall cooperate with and shall help promote development of foster parent associations in each county in this state. The state agency shall provide foster parent associations with data, information, and guidelines on the obligations, responsibilities, and opportunities of foster parenting and shall keep the associations and their members apprised of changes in laws and rules relevant to foster parenting.

Added by Laws 1996, c. 353, § 11, eff. Nov. 1, 1996. Amended by Laws 2009, c. 233, § 103, emerg. eff. May 21, 2009. Renumbered from § 7211 of Title 10 by Laws 2009, c. 233, § 307, emerg. eff. May 21, 2009.

§10A-1-9-116.1. Liability of foster parent.

A foster parent who is acting in good faith and pursuant to the reasonable and prudent parent standard shall not be liable for property damage or injuries caused by the child or injuries to the child placed in his or her care when the child engages in appropriate activities and such damage or injuries result from the inherent risks typically associated with such activities. Nothing in this section shall prevent or limit the liability of a foster parent if the foster parent commits an act or omission that constitutes willful or wanton disregard for the safety of the child or other persons or their property, and that act or omission caused the damage or injuries.

Added by Laws 2017, c. 342, § 8, eff. Nov. 1, 2017.

§10A-1-9-116. Foster parent training and continuing education.

A. The Department of Human Services and each child-placing agency shall develop:

1. A foster care education program to provide training for persons intending to furnish foster care services; and

2. Continuing educational programs for foster parents.

B. 1. In addition to any other conditions and requirements specified by the state agency or child-placing agency, as applicable, prior to placement of a child in foster placement other than kinship care, each foster parent shall have completed the training approved by the Department or the child-placing agency, as appropriate.

2. A foster parent providing kinship foster care shall, if possible, complete the training developed by the Department for

kinship foster care prior to placement or at such other times as required by the Department; provided, however, in no event shall training take place later than one hundred twenty (120) days after placement of the child with the kinship foster parent. Until a kinship foster parent receives final approval from the Department to provide foster care services to a child, the kinship foster parent shall not be eligible to receive any payment for providing foster care services.

3. Approved training shall require a minimum of twelve (12) hours of study related, but not limited, to physical care, education, learning disabilities, procedures for referral to and receipt of necessary professional services, behavioral assessment and modification, transition to successful adulthood skills, and procedures for biological parent contact. Such training shall relate to the area of parental substitute authority, the reasonable and prudent parent standard relative to child participation in age-appropriate or developmentally appropriate activities, behavioral management techniques including, but not limited to, parent-child conflict resolution techniques, stress management, and any other appropriate technique to teach the foster parent how to manage the child's behavior in a manner appropriate to the age and development of the foster child.

4. The foster parent or person intending to provide foster care services may complete the training as part of an approved training program offered by a public or private agency with expertise in the provision of child foster care or in related subject areas.

C. In order to assist persons providing kinship foster care, the Department shall immediately refer kinship foster parents and the child for assistance under the Temporary Assistance for Needy Families Program until the certification and training requirements have been completed.

D. Foster parent training programs may include, but not be limited to, in-service training, workshops and seminars developed by the state agency; seminars and courses offered through public or private education agencies; and workshops, seminars and courses pertaining to behavioral and developmental disabilities and to the development of mutual support services for foster parents.

E. The Department and each child-placing agency shall provide statewide training, education, and continuing education programs for foster parents.

F. The Department or each child-placing agency shall notify a foster parent at least ten (10) business days in advance of the statewide scheduling of education, continuing education or foster parent training occurring near the vicinity of the home of a foster parent.

G. The Department may also provide additional foster care training to a foster parent. A foster parent may request in writing to the Department that additional foster parent training be provided. Added by Laws 1996, c. 353, § 12, eff. Nov. 1, 1996. Amended by Laws 1997, c. 389, § 16, eff. Nov. 1, 1997; Laws 1998, c. 414, § 12, emerg. eff. June 11, 1998; Laws 1999, c. 2, § 4, emerg. eff. March 3, 1999; Laws 2000, c. 374, § 36, eff. July 1, 2000; Laws 2009, c. 233, § 104, emerg. eff. May 21, 2009. Renumbered from § 7212 of Title 10 by Laws 2009, c. 233, § 308, emerg. eff. May 21, 2009. Amended by Laws 2015, c. 173, § 10, eff. Nov. 1, 2015.

§10A-1-9-117. Allegations against employees of Department or child-placing agency by foster parent.

A. 1. A foster parent may report to the Office of Client Advocacy of the Department of Human Services an allegation that an employee of the Department or of a child-placing agency has threatened the foster parent with removal of a child from the foster parent, harassed or refused to place a child in a licensed or certified foster home, or disrupted a child placement as retaliation or discrimination towards a foster parent who has:

- a. filed a grievance pursuant to Section 1-9-120 of this title,
- b. provided information to any state official or Department employee, or
- c. testified, assisted, or otherwise participated in an investigation, proceeding or hearing against the Department or child-placing agency.

2. The provisions of this subsection shall not apply to any complaint by a foster parent regarding the result of a criminal, administrative, or civil proceeding for a violation of any law, rule, or contract provision by that foster parent, or the action taken by the Department or a child-placing agency in conformity with the result of any such proceeding.

3. A reporter shall not be relieved of the duty to report incidents of alleged child abuse or neglect pursuant to the Oklahoma Children's Code.

4. The Advocate General shall establish rules and procedures for evaluating reports of complaints pursuant to paragraph 1 of this subsection and for conducting an investigation of such reports.

B. 1. The Office of Client Advocacy shall prepare and maintain written records from the reporting source that shall contain the following information to the extent known at the time the report is made:

- a. the names and addresses of the child and the person responsible for the child's welfare,
- b. the nature of the complaint, and

c. the names of the persons or agencies responsible for the allegations contained in the complaint.

2. Any investigation conducted by the Office of Client Advocacy pursuant to such information shall not duplicate and shall be separate from the investigation mandated by the Oklahoma Children's Code or other investigation of the Department having notice and hearing requirements.

3. At the request of the reporter, the Office of Client Advocacy shall keep the identity of the reporter strictly confidential from the operation of the Department, until the Advocate General determines what recommendations shall be made to the Commission for Human Services and to the Director of the Department.

C. The Commission shall ensure that a person making a report in good faith under this section is not adversely affected solely on the basis of having made such report.

D. Any person who knowingly and willfully makes a false or frivolous report or complaint or a report that the person knows lacks factual foundation, pursuant to the provisions of this section, may be subject to loss of foster parent certification.

Added by Laws 1997, c. 389, § 11, eff. Nov. 1, 1997. Amended by Laws 1999, c. 396, § 12, emerg. eff. June 10, 1999; Laws 2001, c. 415, § 13, emerg. eff. June 5, 2001; Laws 2009, c. 233, § 95, emerg. eff. May 21, 2009. Renumbered from § 7204.1 of Title 10 by Laws 2009, c. 233, § 309, emerg. eff. May 21, 2009.

§10A-1-9-118. Written contract - Information provided to foster parents - Supervision by child-placing agency.

A. The Department of Human Services or any child-placing agency shall, prior to any foster placement, enter into a written contract with the foster care placement provider. The contract shall provide, at a minimum:

1. That the state agency and the child-placing agency shall have access at all times to the child and to the foster placement;

2. A listing of any specific requirements, specific duties or restrictions in providing foster care services;

3. That any foster child shall have access to and be accessible by any court-appointed special advocate for the foster child and the foster child's attorney;

4. That the foster care placement provider shall comply with performance standards required pursuant to the Oklahoma Children's Code and the Oklahoma Child Care Facilities Licensing Act;

5. Information regarding the amount of payments to be made for foster care services, including but not limited to a description of the process involved in receiving payments, including projected time frames, information related to reimbursements for eligible costs and expenses for which the foster parent may be reimbursed and any

information concerning the accessibility and availability of funds for foster parents;

6. That any foster child placed with a foster care placement provider shall be released to the state agency or the child-placing agency whenever, in the opinion of the state agency or the child-placing agency, the best interests of the deprived child require such release; and

7. Such other information required by the state agency and the child-placing agency.

B. The state agency or child-placing agency shall provide the following information to the foster parent at the time of placement, along with a copy of the written contract required pursuant to subsection A of this section:

1. The names and telephone numbers of the child's case worker, the foster parents' case worker, the case workers' supervisors, and the contact within the state agency central office, or the name and telephone number of the contact person within the child-placing agency and any other medical, psychological, social or other pertinent information relating to foster care;

2. A copy of the grievance procedure established by the state agency or the child-placing agency;

3. The name and telephone number of any foster parent association in the county of residence of the foster parent;

4. For foster parents of deprived children, the name and telephone number of any postadjudication review board established in the county of residence of the foster parent or the nearest postadjudication review board and the court having jurisdiction over the child;

5. A copy of the statement of foster parent rights;

6. Information detailing the ability of the foster parent to submit information and written reports to the court, and to request the court for review of a decision by the state agency or the child-placing agency to remove a foster child who has been placed with the foster parent, in accordance with the limitations and requirements of Section 1-4-805 of this title; and

7. A copy of the policies and procedures of the Department or child-placing agency which pertain to placement operations of the agency, and which may be necessary to properly inform the out-of-home placement providers of the duties, rights and responsibilities of the out-of-home placement providers and the Department.

C. 1. In addition to other requirements made pursuant to the Oklahoma Child Care Facilities Licensing Act, each child-placing agency shall maintain supervision of all children placed by the agency in foster placement and shall maintain supervision of and make regular visits to such foster placements.

2. The child-placing agency shall visit each foster child no less than once every month with no less than two visits per quarter in the foster placement.

3. The child-placing agency shall prepare and maintain a written report of its findings for each visit.

4. a. A complete written review of the placement, well-being, and progress of any foster child in foster care with a child-placing agency shall be made by the child-placing agency as required by the Department.
- b. If a child-placing agency is providing foster care services for a child pursuant to a written agreement or contract with the parents or guardian of a child, the child-placing agency shall provide a copy of the written review to the parents or guardian of the child. The written agreement or contract shall specify how often the review shall be conducted.

Added by Laws 1996, c. 353, § 6, eff. Nov. 1, 1996. Amended by Laws 1997, c. 389, § 12, eff. Nov. 1, 1997; Laws 1998, c. 414, § 7, emerg. eff. June 11, 1998; Laws 2008, c. 159, § 3, emerg. eff. May 12, 2008; Laws 2009, c. 233, § 97, emerg. eff. May 21, 2009. Renumbered from § 7206 of Title 10 by Laws 2009, c. 233, § 310, emerg. eff. May 21, 2009.

§10A-1-9-119.1. Rights of children being served by Child Welfare Services.

A. A child being served by Child Welfare Services of the Department of Human Services is entitled to reasonable, good-faith efforts in order to be provided the following rights when doing so serves the child's best interest:

1. Placement:
- a. to remain in the custody of the child's parents or legal custodians unless and until there has been a determination in accordance with state law that removal is appropriate,
- b. to be placed, in accordance with state law, when circumstances permit and in the following order of preference:
- (1) with an approved relative,
  - (2) with an approved kinship placement,
  - (3) with an approved resource family who has previously cared for the child, and
  - (4) with an approved resource family,
- c. to be placed in the nearest geographic proximity to the home of the child as possible,
- d. to be placed with the child's sibling, when appropriate, if the sibling is also placed outside his or her home,

- e. to be placed, when appropriate, with a child of his or her own,
  - f. to be placed, when possible, with a foster family that can and is willing to accommodate the child's communication needs,
  - g. to be provided with both information about a foster family or program and, when circumstances permit, an opportunity to meet the foster parent or program staff before placement occurs,
  - h. to be provided, when possible, an age-appropriate explanation why the child is in foster care and what is happening to the child and to the child's family, including siblings,
  - i. to continue in the same school or educational placement with minimal disruption in order to receive an education that fits the child's age and individual needs,
  - j. to be treated with dignity during placement changes.
    - (1) Except when a change in placement is due to an emergency, a child and the child's attorney shall be afforded five (5) judicial days' notice before a change in placement.
    - (2) Prior to any placement change, the impacted child shall be consulted when appropriate and advised in an age-appropriate manner of the circumstances and the reason for the placement change. The child's input concerning the placement change shall be considered, taking the child's age and developmental level into account, and
  - k. to receive reasonable equipment and assistance to transport personal possessions during placement changes;
2. Safety:
- a. to live in a safe, healthy and comfortable home,
  - b. to have adequate and appropriate clothing,
  - c. to receive individualized medical, dental, vision, mental health and other required services by, when reasonably possible, a continuity of providers,
  - d. to be free of unnecessary or excessive medication, and
  - e. to report a potential violation of personal rights without fear of punishment, interference, coercion or other retaliation;
3. Privacy:
- a. to have an age-appropriate expectation of privacy in accordance with existing law as to person, property and communications,

- b. to freely exercise the child's own religious beliefs, including the refusal to attend any religious activities and services, and
  - c. to confidentiality of all juvenile court records consistent with existing law;
4. Communication:
- a. to have written visitation plans with parents and siblings in accordance with existing law,
  - b. to begin visitation with parents and siblings in accordance with existing law,
  - c. to have safe and reasonable communications, when appropriate and in accordance with existing law, with the child's parents, siblings, extended family and friends,
  - d. to have regular and meaningful access to the child's attorney, guardian and court-appointed special advocate,
  - e. to communicate, in private if necessary, with any court and judge with personal jurisdiction of the child. This shall include informing the court of inadequate representation being provided by any attorney or other individual tasked with advocating on behalf of the child,
  - f. to be provided the opportunity to engage in regular, meaningful and private communication with the child's assigned caseworker,
  - g. to participate, in a manner consistent with the child's age and developmental level and in accordance with existing law, in the development of and any revision to the child's service plan,
  - h. to be presented, when appropriate and in accordance with existing law, with the service plan for the child's review and signature,
  - i. when appropriate, to be notified of, attend and have the opportunity to be heard in court hearings relating to the child's case and in family team meetings, and
  - j. to have, in accordance with existing law, all of the child's records available for review by the child's attorney and court-appointed special advocate if they deem such review necessary; and
5. Personal Growth:
- a. to have fair and equal access to all available services, placement, care, treatment and benefits, and to not be subjected to discrimination or harassment as ensured by existing law,
  - b. to engage in reasonable, age-appropriate day-to-day activities, including extracurricular, enrichment and

social activities, consistent with the most family-like environment,

- c. to receive independent living and support services and, unless circumstances or existing law requires a document be obtained sooner, be provided identification and permanent documents, including birth certificate, Social Security card and health records by eighteen (18) years of age, to the extent allowed by federal and state law,
- d. the opportunity to work and develop job skills at an age-appropriate level that is consistent with state law, and
- e. to manage or have managed their personal earnings and financial resources in a manner consistent with the child's age and developmental level.

B. One or more of the enumerated rights in subsection A of this section may conflict. Therefore, a balanced approach to protect these rights shall be pursued that takes into account both the child's unique circumstances and what is in the child's best interest.

C. A statement of the rights enumerated in this section shall be provided to:

1. Each child at the outset of entering foster care and at least annually thereafter; and

2. Any foster parent once a child in the custody of the Department enters the foster parent's home and annually thereafter.

D. Subsequent to the exhaustion of available administrative remedies as provided in Section 1-9-120 of Title 10A of the Oklahoma Statutes, any child aggrieved by a violation of these rights may seek intervention by a court with jurisdiction over the child to make it aware of the grievance and obtain, if warranted, appropriate equitable relief. The court in its discretion may waive the prior exhaustion of administrative remedies. Nothing in this section, however, shall be construed to create a private cause of action or claim on the part of any individual, the Department, the Office of Juvenile Affairs or any child-placing agency.

Added by Laws 2018, c. 40, § 1, eff. Nov. 1, 2018.

§10A-1-9-119. Statement of foster parent's rights.

A. A statement of foster parent's rights shall be given to every foster parent annually and shall include, but not be limited to, the right to:

1. Be treated with dignity, respect, and consideration as a professional member of the child welfare team;

2. Be notified of and be given appropriate, ongoing education and continuing education and training to develop and enhance foster parenting skills;

3. Be informed about ways to contact the state agency or the child-placing agency in order to receive information and assistance to access supportive services for any child in the foster parent's care;
4. Receive timely financial reimbursement for providing foster care services;
5. Be notified of any costs or expenses for which the foster parent may be eligible for reimbursement;
6. Be provided a clear, written explanation of the individual treatment and service plan concerning the child in the foster parent's home, listing components of the plan pursuant to the provisions of the Oklahoma Children's Code;
7. Receive, at any time during which a child is placed with the foster parent, additional or necessary information that is relevant to the care of the child;
8. Be notified of scheduled review meetings, permanency planning meetings, family team meetings and special staffing concerns for any foster child placed in the foster parent's home in order to actively participate in the case planning and decision-making process regarding the child;
9. Provide input concerning the plan of services for the child and to have that input be given full consideration in the same manner as information presented by any other professional on the team;
10. Communicate with other foster parents in order to share information regarding the foster child. In particular, receive any information concerning the number of times a foster child has been moved and the reasons why, and the names and telephone numbers of the previous foster parent if the previous foster parent has authorized such release;
11. Communicate with other professionals who work with the foster child within the context of the team including, but not limited to, therapists, physicians, and teachers;
12. Be given, in a timely and consistent manner, any information regarding the child and the child's family which is pertinent to the care and needs of the child and to the making of a permanency plan for the child. Disclosure of information shall be limited to that information which is authorized by the provisions of Chapter VI of the Oklahoma Children's Code for foster parents;
13. Be given reasonable notice of any change in or addition to the services provided to the child pursuant to the child's individual treatment and service plan;
14. a. Be given written notice of:
  - (1) plans to terminate the placement of the child with the foster parent pursuant to Section 1-4-805 of this title, and
  - (2) the reasons for the changes or termination in placement.

b. The notice shall be waived only in emergency cases pursuant to Section 1-4-805 of this title;

15. Be notified by the applicable state agency in a timely and complete manner of all court hearings, including notice of the date and time of any court hearing, the name of the judge or hearing officer hearing the case, the location of the hearing, and the court docket number of the case;

16. Be informed of decisions made by the court, the state agency or the child-placing agency concerning the child;

17. Be considered as a preferred placement option when a foster child who was formerly placed with the foster parent is to reenter foster care at the same level and type of care, if that placement is consistent with the best interest of the child and other children in the home of the foster parent;

18. Be provided a fair, timely, and impartial investigation of complaints concerning the certification of the foster parent;

19. Be provided the opportunity to request and receive a fair and impartial hearing regarding decisions that affect certification retention or placement of children in the home;

20. Be allowed the right to exercise parental substitute authority;

21. Have timely access to the appeals process of the state agency and child placement agency and the right to be free from acts of harassment and retaliation by any other party when exercising the right to appeal;

22. Be given the number of the statewide toll-free Foster Parent Hotline;

23. File a grievance and be informed of the process for filing a grievance; and

24. Receive a copy of the liability insurance policy the Department of Human Services maintains for every Department-contracted foster home placement.

B. The Department of Human Services and a child-placing agency under contract with the Department shall be responsible for implementing this section.

C. Nothing in this section shall be construed to create a private right of action or claim on the part of any individual, the Department, the Office of Juvenile Affairs, or any child-placing agency.

Added by Laws 1997, c. 389, § 13, eff. Nov. 1, 1997. Amended by Laws 1998, c. 414, § 8, emerg. eff. June 11, 1998; Laws 1999, c. 396, § 13, emerg. eff. June 10, 1999; Laws 2000, c. 177, § 3, eff. July 1, 2000; Laws 2009, c. 233, § 98, emerg. eff. May 21, 2009. Renumbered from § 7206.1 of Title 10 by Laws 2009, c. 233, § 311, emerg. eff. May 21, 2009. Amended by Laws 2014, c. 134, § 1, eff. Nov. 1, 2014; Laws 2014, c. 257, § 4, eff. Nov. 1, 2014; Laws 2017, c. 342, § 9, eff. Nov. 1, 2017.

§10A-1-9-120. Grievance procedures for foster parents.

A. The Office of Client Advocacy and child-placing agencies shall each establish grievance procedures for foster parents with whom the Department of Human Services or child-placing agencies contract. The Office of Client Advocacy shall work with the Office of Juvenile System Oversight to track foster parent complaints through the grievance procedures and ensure a resolution of the complaint.

B. The procedures established shall contain the following minimum requirements:

1. Resolution of disputes with foster parents shall be accomplished quickly, informally and at the lowest possible level, but shall provide for access to impartial arbitration by management level personnel within the central office;

2. Prompt resolution of grievances no more than sixty (60) days after receipt of the grievance or complaint; and

3. Notification to all foster parents upon placement of a child about the grievance procedures and how to file a complaint.

C. The Office of Client Advocacy and child-placing agency shall designate one employee at the central office to receive and process foster care grievances received by the Office of Juvenile System Oversight.

D. The Office of Client Advocacy and child-placing agency shall maintain records of each grievance filed as well as summary information about the number, nature and outcome of all grievances filed. The Office of Client Advocacy and the Office of Juvenile System Oversight shall compile an annual report for the Oklahoma Legislature that details the number of complaints received, the number of complaints resolved, the nature of the complaints and any other information requested by the Legislature. Agencies shall keep records of grievances separate and apart from other foster parent files. A foster parent or a former foster parent shall have a right of access to the record of grievances such person filed after the procedure has been completed.

E. 1. Each foster parent shall have the right, without fear of reprisal or discrimination, to present grievances with respect to the providing of foster care services.

2. The Department of Human Services shall promptly initiate a plan of corrective discipline including, but not limited to, dismissal of any Department employee or cancellation or nonrenewal of the contract of a child-placing agency determined by the state agency, through an investigation to have retaliated or discriminated against a foster parent who has:

a. filed a grievance pursuant to the provisions of this section,

- b. provided information to any official or Department employee, or
- c. testified, assisted, or otherwise participated in an investigation, proceeding or hearing against the Department or the child-placing agency.

3. The provisions of this subsection shall not be construed to include any complaint by the foster parent resulting from an administrative, civil or criminal action taken by the employee or child-placing agency for violations of law or rules, or contract provisions by the foster parent.

Added by Laws 1996, c. 353, § 13, eff. Nov. 1, 1996. Amended by Laws 1997, c. 389, § 17, eff. Nov. 1, 1997; Laws 1999, c. 396, § 14, emerg. eff. June 10, 1999; Laws 2009, c. 233, § 105, emerg. eff. May 21, 2009. Renumbered from § 7213 of Title 10 by Laws 2009, c. 233, § 312, emerg. eff. May 21, 2009. Amended by Laws 2014, c. 257, § 5, eff. Nov. 1, 2014.

§10A-1-9-121. Grandparents - Legislative findings and declaration - Informational and educational program - Distribution of informational brochures.

A. The Oklahoma Legislature finds and declares that:

1. An increasing number of children under the age of eighteen (18) years, including many children who would otherwise be at risk of abuse or neglect, are in the care of a grandparent;

2. A principal cause for this increase is an increase in the incidence of parental substance abuse, child abuse, mental illness, poverty, and death, as well as concerted efforts by families and by the child welfare service system to keep children with relatives whenever possible;

3. Grandparents providing primary care for at-risk children may experience unique resultant problems, such as financial stress due to limited incomes, emotional difficulties related to dealing with the loss of the child's parents or to the child's unique behaviors, and decreased physical stamina combined with a much higher incidence of chronic illness;

4. Many children being raised by grandparents experience one or more of a combination of emotional, behavioral, psychological, academic, or medical problems, especially those born to a substance-abusing mother or those who are at risk of child abuse, neglect, or abandonment; and

5. Grandparents providing primary care for children lack appropriate information about the issues of kinship care, the special needs, both physical and psychological, of children born to a substance-abusing mother or who are at risk of child abuse, neglect, or abandonment, and the support resources currently available to them.

B. The Department of Human Services shall establish an informational and educational program including, but not limited to, the area of parental substitute authority, for grandparents who provide primary care for children who are at risk of child abuse, neglect, or abandonment or who were born to substance-abusing mothers. As a part of the program, the Department shall develop, publish, and distribute an informational brochure for grandparents who provide primary care for children who are at risk of child abuse, neglect, or abandonment or who were born to substance-abusing mothers. The information provided under the program authorized by this section may include, but is not limited to, the following:

1. The problems experienced by children being raised by grandparents;
2. The problems experienced by grandparents providing primary care for children who have special needs;
3. The legal system as it relates to children and grandparents;
4. The benefits available to children and grandparents providing primary care; and
5. A list of support groups and resources located throughout the state.

C. The brochure may be distributed through hospitals, public health nurses, child protective services, medical professional offices, elementary and secondary schools, senior citizen centers, public libraries, and community action agencies selected by the Department.

Added by Laws 1997, c. 389, § 18, eff. Nov. 1, 1997. Amended by Laws 1998, c. 414, § 13, emerg. eff. June 11, 1998. Renumbered from § 7220 of Title 10 by Laws 2009, c. 233, § 313, emerg. eff. May 21, 2009.

§10A-1-9-122. Supported guardianship program.

The Department of Human Services shall establish and administer an ongoing program of supported guardianship to assist families wishing to make a long-term commitment to a child by accepting guardianship of the child. The supported guardianship program shall enable the family to assume the parental role without ongoing Department oversight but allow the family to return to the Department for services as needed.

Added by Laws 1997, c. 389, § 21, eff. Nov. 1, 1997. Amended by Laws 2009, c. 233, § 42, emerg. eff. May 21, 2009. Renumbered from § 7003-5.6b of Title 10 by Laws 2009, c. 233, § 314, emerg. eff. May 21, 2009.

§10A-1-9-123. Policies and procedures for children and youth at risk of sex trafficking.

A. 1. The Department of Human Services shall, in consultation with state and local law enforcement, juvenile justice systems,

health care providers, education agencies, and organizations with experience in dealing with at-risk children and youth, establish policies and procedures, including relevant training for caseworkers, for identifying, documenting in agency records and determining appropriate services for children and youth at risk of sex trafficking.

2. The policies and procedures shall be developed for every child or youth over whom the Department has responsibility for placement, care or supervision and shall apply when the Department has reasonable cause to believe a child or youth is currently, or is at risk of being, a victim of sex trafficking, including a child or youth:

- a. for whom the Department has an open case file, but who has not been removed from the home,
- b. who has run away from foster care and who has not attained eighteen (18) years of age, or
- c. who is not in foster care but is receiving services.

B. When notified a child or youth has run away or is missing from a foster placement, the Department shall, within twenty-four (24) hours of notification, report such status of the child or youth to local law enforcement, the National Crime Information Center, and to the National Center for Missing and Exploited Children.

C. The Department shall develop and implement specific protocols to:

1. Expeditiously locate any child or youth missing from foster care;

2. Determine the primary factors that contributed to the child or youth running away or otherwise being absent from foster care;

3. Respond, to the extent possible and appropriate, to those factors that contributed to the absence from care or runaway behaviors in the current and subsequent placements of the child or youth; and

4. Determine what the child or youth experienced while absent from care, that would include an appropriate screening to determine if the child or youth is a possible victim of sex trafficking.

D. The Department shall report to law enforcement authorities immediately, and in no case later than twenty-four (24) hours, after receiving information on a child or youth who has been identified as being a sex trafficking victim as defined by Section 1-1-105 of Title 10A of the Oklahoma Statutes.

Added by Laws 2015, c. 173, § 11, eff. Nov. 1, 2015.

§10A-1-9-124. Zero to Three Court Program.

District courts of this state are hereby authorized to establish a "Zero to Three Court Program", which may be established by a judge with jurisdiction over juvenile court matters with the goals of reducing time to permanency of children thirty-six (36) months of age

or younger by surrounding at-risk families with support services, reducing incidences of repeat maltreatment among children thirty-six (36) months of age or younger, and promoting effective interaction and the use of resources among both public and private, state and local, child and family services agencies; state and local mental health agencies; and community agencies. The Department of Human Services, the Department of Mental Health and Substance Abuse Services and the Administrative Offices of the Courts shall collaborate to provide services to Zero to Three Court Programs as resources are available.

Added by Laws 2018, c. 256, § 4, emerg. eff. May 8, 2018.

§10A-1-10-101. Repealed by Laws 2012, c. 353, § 13, emerg. eff. June 8, 2012.

§10A-1-10-102. Repealed by Laws 2012, c. 353, § 13, emerg. eff. June 8, 2012.

§10A-1-10-103. Child Welfare Review Committee for the Death and Near Death of Children With Disabilities.

A. There is hereby created, to continue until December 31, 2018, the "Child Welfare Review Committee for the Death and Near Death of Children With Disabilities". The purpose of the Committee shall be to study cases of the death and near death of children with disabilities who have previous child welfare involvement with or are in the custody and care of the Department of Human Services.

B. All meetings and records of the Committee shall be confidential and shall not be open to the general public or inspected or their contents disclosed.

C. The Committee shall consist of ten (10) members as follows:

1. The Speaker of the House of Representatives, or designee;
2. The President Pro Tempore of the Senate, or designee;
3. The Minority Leader of the House of Representatives, or

designee;

4. The Minority Leader of the Senate, or designee;

5. The Attorney General, or designee;

6. The Director of the Department of Human Services, or

designee;

7. The Advocate General of the Department of Human Services;

8. The Superintendent of Public Instruction, or designee;

9. The Chief Justice of the Oklahoma Supreme Court, or designee;

and

10. A medical expert in children with disabilities, appointed by the Governor.

D. Appointments to the Committee shall be made by September 1, 2016. Members of the Committee shall serve at the pleasure of the

appointing authority. A vacancy on the Committee shall be filled by the appointing authority.

E. The Committee shall conduct an organizational meeting not later than October 1, 2016. The Committee shall elect a chair and cochair at the organizational meeting. A majority of the members present at a meeting shall constitute a quorum to conduct business.

F. The Committee shall meet as often as necessary to review cases, but at least quarterly. Members of the Committee shall receive no compensation or travel reimbursement for their service.

G. Administrative support for the Committee including, but not limited to, personnel necessary to ensure the proper performance of the duties and responsibilities of the Committee shall be provided by the staff of the Oklahoma Commission on Children and Youth and the Department of Human Services.

H. The Committee shall issue a report of its findings to the Legislature and Governor no later than December 1, 2018. Any confidential or protected health information shall be redacted from the report.

Added by Laws 2016, c. 137, § 1, eff. July 1, 2016.

§10A-2-1-101. Short title.

A. Article 2 of Title 10A of the Oklahoma Statutes shall be known and may be cited as the "Oklahoma Juvenile Code".

B. All statutes hereinafter enacted and codified in Article 2 of Title 10A of the Oklahoma Statutes shall be considered and deemed part of the Oklahoma Juvenile Code.

C. Chapter captions are part of the Oklahoma Juvenile Code, but shall not be deemed to govern, limit or in any manner affect the scope, meaning or intent of the provisions of any article or part of this Code.

D. The district attorney shall prepare and prosecute any case or proceeding within the purview of the Oklahoma Juvenile Code.

Added by Laws 1995, c. 352, § 70, eff. July 1, 1995. Amended by Laws 2009, c. 234, § 2, emerg. eff. May 21, 2009. Renumbered from § 7301-1.1 of Title 10 by Laws 2009, c. 234, § 168, emerg. eff. May 21, 2009.

§10A-2-1-102. Legislative intent - Construction of chapter - Purpose.

It is the intent of the Legislature that Article 2 of this title shall be liberally construed, to the end that its purpose may be carried out.

The purpose of the laws relating to juveniles alleged or adjudicated to be delinquent is to promote the public safety and reduce juvenile delinquency. This purpose should be pursued through means that are fair and just, that:

1. Recognize the unique characteristics and needs of juveniles;

2. Give juveniles access to opportunities for personal and social growth;
3. Maintain the integrity of substantive law prohibiting certain behavior and developing individual responsibility for lawful behavior;
4. Provide a system relying upon individualized treatment and best practice for the rehabilitation and reintegration of juvenile delinquents into society;
5. Preserve and strengthen family ties whenever possible, including improvement of home environment;
6. Remove a juvenile from the custody of parents if the welfare and safety of the juvenile or the protection of the public would otherwise be endangered;
7. Secure for any juvenile removed from the custody of parents the necessary treatment, care, guidance and discipline to assist the juvenile in becoming a responsible and productive member of society; and
8. Provide procedures through which the provisions of the law are executed and enforced and which will assure the parties fair hearings at which their rights as citizens are recognized and protected.

Added by Laws 1995, c. 352, § 71, eff. July 1, 1995. Amended by Laws 2009, c. 234, § 3, emerg. eff. May 21, 2009. Renumbered from § 7301-1.2 of Title 10 by Laws 2009, c. 234, § 168, emerg. eff. May 21, 2009. Amended by Laws 2013, c. 404, § 2, eff. Nov. 1, 2013.

§10A-2-1-103. Definitions.

When used in the Oklahoma Juvenile Code, unless the context otherwise requires:

1. "Adjudicatory hearing" means a hearing to determine whether the allegations of a petition filed pursuant to the provisions of Chapter 2 of the Oklahoma Juvenile Code are supported by the evidence and whether a juvenile should be adjudged to be a ward of the court;
2. "Alternatives to secure detention" means those services and facilities which are included in the State Plan for the Establishment of Juvenile Detention Services adopted by the Board of Juvenile Affairs and which are used for the temporary detention of juveniles in lieu of secure detention in a juvenile detention facility;
3. "Behavioral health" means mental health, substance abuse or co-occurring mental health and substance abuse diagnoses, and the continuum of mental health, substance abuse, or co-occurring mental health and substance abuse treatment;
4. "Behavioral health facility" means a mental health or substance abuse facility as provided for by the Inpatient Mental Health and Substance Abuse Treatment of Minors Act;
5. "Board" means the Board of Juvenile Affairs;

6. "Child" or "juvenile" means any person under eighteen (18) years of age, except for any person charged and convicted for any offense specified in the Youthful Offender Act or against whom judgment and sentence has been deferred for such offense, or any person who is certified as an adult pursuant to any certification procedure authorized in the Oklahoma Juvenile Code for any offense which results in a conviction or against whom judgment and sentence has been deferred for such offense;

7. "Child or juvenile in need of mental health and substance abuse treatment" means a juvenile in need of mental health and substance abuse treatment as defined by the Inpatient Mental Health and Substance Abuse Treatment of Minors Act;

8. "Child or juvenile in need of supervision" means a juvenile who:

- a. has repeatedly disobeyed reasonable and lawful commands or directives of the parent, legal guardian, or other custodian,
- b. is willfully and voluntarily absent from his or her home without the consent of the parent, legal guardian, or other custodian for a substantial length of time or without intent to return,
- c. is willfully and voluntarily absent from school, as specified in Section 10-106 of Title 70 of the Oklahoma Statutes, if the juvenile is subject to compulsory school attendance, or
- d. has been served with an ex parte or final protective order pursuant to the Protection from Domestic Abuse Act;

9. "Community-based" means a facility, program or service located near the home or family of the juvenile, and programs of community prevention, diversion, supervision and service which maintain community participation in their planning, operation, and evaluation. These programs may include but are not limited to medical, educational, vocational, social, and psychological guidance, training, counseling, alcoholism treatment, drug treatment, prevention and diversion programs, diversion programs for first-time offenders, transitional living, independent living and other rehabilitative services;

10. "Community intervention center" means a facility which serves as a short-term reception facility to receive and hold juveniles for an alleged violation of a municipal ordinance, state law or who are alleged to be in need of supervision, as provided for in subsection D of Section 2-7-305 of this title;

11. "Core community-based" means the following community-based facilities, programs or services provided through contract with the Office of Juvenile Affairs as provided in Section 2-7-306 of this title:

- a. screening, evaluation and assessment which includes a face-to-face screening and evaluation to establish problem identification and to determine the risk level of a child or adolescent and may result in clinical diagnosis or diagnostic impression,
- b. treatment planning which includes preparation of an individualized treatment plan which is usually done as part of the screening, evaluation and assessment,
- c. treatment plan reviewing which includes a comprehensive review and evaluation of the effectiveness of the treatment plan,
- d. individual counseling which includes face-to-face, one-on-one interaction between a counselor and a juvenile to promote emotional or psychological change to alleviate the issues, problems, and difficulties that led to a referral, including ongoing assessment of the status and response of the juvenile to treatment as well as psychoeducational intervention,
- e. group counseling which includes a method of treating a group of individuals using the interaction between a counselor and two or more juveniles or parents or guardians to promote positive emotional or behavioral change, not including social skills development or daily living skills,
- f. family counseling which includes a face-to-face interaction between a counselor and the family of the juvenile to facilitate emotional, psychological or behavior changes and promote successful communication and understanding,
- g. crisis intervention counseling which includes unanticipated, unscheduled face-to-face emergency intervention provided by a licensed level or qualified staff with immediate access to a licensed provider to resolve immediate, overwhelming problems that severely impair the ability of the juvenile to function or maintain in the community,
- h. crisis intervention telephone support which includes supportive telephone assistance provided by a licensed level provider or qualified staff with immediate access to a licensed provider to resolve immediate, overwhelming problems that severely impair the ability of the juvenile to function or maintain in the community,
- i. case management which includes planned linkage, advocacy and referral assistance provided in partnership with a client to support that client in self-sufficiency and community tenure,

- j. case management and home-based services which includes that part of case management services dedicated to travel for the purpose of linkage, advocacy and referral assistance and travel to provide counseling and support services to families of children as needed to support specific youth and families in self-sufficiency and community tenure,
- k. individual rehabilitative treatment which includes face-to-face service provided one-on-one by qualified staff to maintain or develop skills necessary to perform activities of daily living and successful integration into community life, including educational and supportive services regarding independent living, self-care, social skills regarding development, lifestyle changes and recovery principles and practices,
- l. group rehabilitative treatment which includes face-to-face group services provided by qualified staff to maintain or develop skills necessary to perform activities of daily living and successful integration into community life, including educational and supportive services regarding independent living, self-care, social skills regarding development, lifestyle changes and recovery principles and practices,
- m. community-based prevention services which include services delivered in an individual or group setting by a qualified provider designed to meet the services needs of a child or youth and family of the child or youth who has been referred because of identified problems in the family or community. The group prevention planned activities must be focused on reducing the risk that individuals will experience behavioral, substance abuse or delinquency-related problems. Appropriate curriculum-based group activities include, but are not limited to, First Offender groups, prevention and relationship enhancement groups, anger management groups, life skills groups, substance abuse education groups, smoking cessation groups, STD/HIV groups and parenting groups,
- n. individual paraprofessional services which include services delineated in the treatment plan of the juvenile which are necessary for full integration of the juvenile into the home and community, but do not require a professional level of education and experience. Activities include assisting families with Medicaid applications, assisting with school and

General Educational Development (GED) enrollment, assisting youth with independent living arrangements, providing assistance with educational problems and deficiencies, acting as a role model for youth while engaging them in community activities, assisting youth in seeking and obtaining employment, providing transportation for required appointments and activities, participating in recreational activities and accessing other required community support services necessary for full community integration and successful treatment,

- o. tutoring which includes a tutor and student working together as a learning team to bring about overall academic success, improved self-esteem and increased independence as a learner for the student,
- p. community relations which include public or community relations activities directed toward the community or public at large or any segment of the public to encourage understanding, accessibility and use of community-based facilities, programs or services,
- q. children's emergency resource centers that are community-based and that may provide emergency care and a safe and structured homelike environment or a host home for children providing food, clothing, shelter and hygiene products to each child served; after-school tutoring; counseling services; life-skills training; transition services; assessments; family reunification; respite care; transportation to or from school, doctors' appointments, visitations and other social, school, court or other activities when necessary; and a stable environment for children who have been detained as delinquent or in need of supervision and temporarily placed by a court, or children in crisis who are in custody of the Office of Juvenile Affairs if permitted under the Office's policies and regulations or who have been voluntarily placed by a parent or custodian during a temporary crisis,
- r. transitional living programs which include a structured program to help older homeless youth achieve self-sufficiency and avoid long-term dependence on social services,
- s. community-at-risk services (C.A.R.S.) which include a program provided to juveniles in custody or under the supervision of the Office of Juvenile Affairs or a juvenile bureau to prevent out-of-home placement and to reintegrate juveniles returning from placements. The program shall include, but not be limited to, treatment

plan development, counseling, diagnostic and evaluation services, mentoring, tutoring, and supervision of youth in independent living,

- t. first offender programs which include alternative diversion programs, as defined by Section 2-2-404 of this title, and
- u. other community-based facilities, programs or services designated by the Board as core community-based facilities, programs or services;

12. "Day treatment" means a program which provides intensive services to juveniles who reside in their own home, the home of a relative, or a foster home. Day treatment programs include educational services and may be operated as a part of a residential facility;

13. "Delinquent child or juvenile" means a juvenile who:

- a. has violated any federal or state law or municipal ordinance except a traffic statute or traffic ordinance or any provision of the Oklahoma Wildlife Conservation Code, the Oklahoma Vessel and Motor Regulation Act or the Oklahoma Boating Safety Regulation Act, or has violated any lawful order of the court made pursuant to the provisions of the Oklahoma Juvenile Code, or
- b. has habitually violated traffic laws, traffic ordinances or boating safety laws or rules;

14. "Dispositional hearing" means a hearing to determine the order of disposition which should be made with respect to a juvenile adjudged to be a ward of the court;

15. "Executive Director" means the Executive Director of the Office of Juvenile Affairs;

16. "Facility" means a place, an institution, a building or part thereof, a set of buildings, or an area whether or not enclosing a building or set of buildings which is used for the lawful custody and treatment of juveniles. A facility shall not be considered a correctional facility subject to the provisions of Title 57 of the Oklahoma Statutes;

17. "Graduated sanctions" means a calibrated system of sanctions designed to ensure that juvenile offenders face uniform, immediate, and consistent consequences that correspond to the seriousness of each offender's current offense, prior delinquent history, and compliance with prior interventions;

18. "Group home" means a residential facility with a program which emphasizes family-style living in a homelike environment. Said group home may also offer a program within the community to meet the specialized treatment needs of its residents. A group home shall not be considered a correctional facility subject to the provisions of Title 57 of the Oklahoma Statutes;

19. "Independent living program" means a program designed to assist a juvenile to enhance skills and abilities necessary for successful adult living and may include but shall not be limited to minimal direct staff supervision and supportive services in making the arrangements necessary for an appropriate place of residence, completing an education, vocational training, obtaining employment or other similar services;

20. "Institution" means a residential facility offering care and treatment for more than twenty residents. An institution shall not be considered a correctional facility subject to the provisions of Title 57 of the Oklahoma Statutes. Said institution may:

- a. have a program which includes community participation and community-based services, or
- b. be a secure facility with a program exclusively designed for a particular category of resident;

21. "Juvenile detention facility" means a facility which is secured by locked rooms, buildings and fences, and meets the certification standards of the Office and which is entirely separate from any prison, jail, adult lockup, or other adult facility, for the temporary care of children. A juvenile detention facility shall not be considered a correctional facility subject to the provisions of Title 57 of the Oklahoma Statutes;

22. "Municipal juvenile facility" means a facility other than a community intervention center that accepts a child under eighteen (18) years of age charged with violating a municipal ordinance and meets the requirements of Section 2-2-102 of this title;

23. "Office" means the Office of Juvenile Affairs;

24. "Peer Review" means an initial or annual review and report to the Office of Juvenile Affairs of the organization, programs, records and financial condition of a Youth Services Agency by the Oklahoma Association of Youth Services, or another Oklahoma nonprofit corporation whose membership consists solely of Youth Services Agencies and of whom at least a majority of Youth Services Agencies are members. An annual review may consist of a review of one or more major areas of the operation of the Youth Services Agency being reviewed;

25. "Person responsible for a juvenile's health or welfare" includes a parent, a legal guardian, custodian, a foster parent, a person eighteen (18) years of age or older with whom the juvenile's parent cohabitates or any other adult residing in the home of the child, an agent or employee of a public or private residential home, institution or facility, or an owner, operator, or employee of a child care facility as defined by Section 402 of Title 10 of the Oklahoma Statutes;

26. "Preliminary inquiry" or "intake" means a mandatory, preadjudicatory interview of the juvenile and, if available, the parents, legal guardian, or other custodian of the juvenile, which is

performed by a duly authorized individual to determine whether a juvenile comes within the purview of the Oklahoma Juvenile Code, whether nonadjudicatory alternatives are available and appropriate, and if the filing of a petition is necessary;

27. "Probation" means a legal status created by court order whereby a delinquent juvenile is permitted to remain outside an Office of Juvenile Affairs facility directly or by contract under prescribed conditions and under supervision by the Office, subject to return to the court for violation of any of the conditions prescribed;

28. "Rehabilitative facility" means a facility maintained by the state exclusively for the care, education, training, treatment, and rehabilitation of juveniles in need of supervision;

29. "Responsible adult" means a stepparent, foster parent, person related to the juvenile in any manner who is eighteen (18) years of age or older, or any person having an obligation and authority to care for or safeguard the juvenile in the absence of another person who is eighteen (18) years of age or older;

30. "Secure detention" means the temporary care of juveniles who require secure custody in physically restricting facilities:

- a. while under the continuing jurisdiction of the court pending court disposition, or
- b. pending placement by the Office of Juvenile Affairs after adjudication;

31. "Secure facility" means a facility, maintained by the state exclusively for the care, education, training, treatment, and rehabilitation of delinquent juveniles or youthful offenders which relies on locked rooms and buildings, and fences for physical restraint in order to control behavior of its residents. A secure facility shall not be considered a correctional facility subject to the provisions of Title 57 of the Oklahoma Statutes;

32. "Transitional living program" means a residential program that may be attached to an existing facility or operated solely for the purpose of assisting juveniles to develop the skills and abilities necessary for successful adult living. Said program may include but shall not be limited to reduced staff supervision, vocational training, educational services, employment and employment training, and other appropriate independent living skills training as a part of the transitional living program; and

33. "Youth Services Agency" means a nonprofit corporation with a local board of directors, officers and staff that has been designated by the Board as a Youth Services Agency, that is peer reviewed annually, and that provides community-based facilities, programs or services to juveniles and their families in the youth services service area in which it is located.

Added by Laws 1995, c. 352, § 72, eff. July 1, 1995. Amended by Laws 1996, c. 47, § 2, emerg. eff. April 8, 1996; Laws 1996, c. 247, § 7,

eff. July 1, 1996; Laws 1997, c. 293, § 2, eff. July 1, 1997; Laws 1998, c. 5, § 7, emerg. eff. March 4, 1998; Laws 1998, c. 268, § 2, eff. July 1, 1998; Laws 1999, c. 365, § 2, eff. Nov. 1, 1999; Laws 2000, c. 6, § 1, emerg. eff. March 20, 2000; Laws 2006, c. 320, § 1, emerg. eff. June 9, 2006; Laws 2009, c. 234, § 4, emerg. eff. May 21, 2009. Renumbered from § 7301-1.3 of Title 10 by Laws 2009, c. 234, § 168, emerg. eff. May 21, 2009. Amended by Laws 2013, c. 404, § 3, eff. Nov. 1, 2013; Laws 2014, c. 362, § 3, emerg. eff. May 28, 2014; Laws 2017, c. 254, § 2, eff. Nov. 1, 2017.

NOTE: Laws 1997, c. 199, § 10 repealed by Laws 1998, c. 5, § 29, emerg. eff. March 4, 1998. Laws 1998, c. 244, § 1 repealed by Laws 1999, c. 1, § 45, emerg. eff. Feb. 24, 1999. Laws 1999, c. 1, § 4 repealed by Laws 2000, c. 6, § 33, emerg. eff. March 20, 2000.

§10A-2-2-101. Taking of child into custody - Detention - Medical treatment - Behavioral health treatment - Hearing on order for medical treatment.

A. A child may be taken into custody prior to the filing of a petition alleging that the child is delinquent or in need of supervision:

1. By a peace officer, without a court order for any criminal offense for which the officer is authorized to arrest an adult without a warrant, or if the child is willfully and voluntarily absent from the home of the child without the consent of the parent, legal guardian, legal custodian or other person having custody and control of the child for a substantial length of time or without intent to return, or if the surroundings of the child are such as to endanger the welfare of the child;

2. By a peace officer or an employee of the court without a court order, if the child is willfully and voluntarily absent from the home of the child without the consent of the parent, legal guardian, legal custodian or other person having custody and control of the child if the surroundings of the child are such as to endanger the welfare of the child or, in the reasonable belief of the employee of the court or peace officer, the child appears to have run away from home without just cause. For purposes of this section, a peace officer may reasonably believe that a child has run away from home when the child refuses to give his or her name or the name and address of a parent or other person legally responsible for the care of the child or when the peace officer has reason to doubt that the name and address given by the child are the actual name and address of the parent or other person legally responsible for the care of the child. A peace officer or court employee is authorized by the court to take a child who has run away from home or who, in the reasonable belief of the peace officer, appears to have run away from home, to a facility designated by administrative order of the court for such purposes if the peace officer or court employee is unable to or has

determined that it is unsafe to return the child to the home of the child or to the custody of his or her parent or other person legally responsible for the care of the child. Any such facility receiving a child shall inform a parent or other person responsible for the care of the child;

3. Pursuant to an order of the district court issued on the application of the office of the district attorney. The application presented by the district attorney shall be supported by a sworn affidavit which may be based upon information and belief. The application shall state facts sufficient to demonstrate to the court that there is probable cause to believe the child has committed a crime or is in violation of the terms of probation, parole or order of the court;

4. By order of the district court pursuant to subsection F of this section when the child is in need of medical or behavioral health treatment or other action in order to protect the health or welfare of the child and the parent, legal guardian, legal custodian or other person having custody or control of the child is unwilling or unavailable to consent to such medical or behavioral health treatment or other action; and

5. Pursuant to an emergency ex parte or a final protective order of the district court issued at the request of a parent or legal guardian pursuant to the Protection from Domestic Abuse Act.

Any child referred to in this subsection shall not be considered to be in the custody of the Office of Juvenile Affairs.

B. Whenever a child is taken into custody as a delinquent child, the child shall be detained, held temporarily in the custodial care of a peace officer or other person employed by a police department, or be released to the custody of the parent of the child, legal guardian, legal custodian, attorney or other responsible adult, upon the written promise of such person to bring the child to the court at the time fixed if a petition is to be filed and to assume responsibility for costs for damages caused by the child if the child commits any delinquent acts after being released regardless of whether or not a petition is to be filed. It shall be a misdemeanor for any person to sign the written promise and then fail to comply with the terms of the promise. Any person convicted of violating the terms of the written promise shall be subject to imprisonment in the county jail for not more than six (6) months or a fine of not more than Five Hundred Dollars (\$500.00), or by both such fine and imprisonment. In addition, if a parent, legal guardian, legal custodian, attorney or other responsible adult is notified that the child has been taken into custody, it shall be a misdemeanor for such person to refuse to assume custody of the child within a timely manner. If detained, the child shall be taken immediately before a judge of the district court in the county in which the child is sought to be detained, or to the place of detention or a children's

emergency resource center or host home designated by the court. If no judge be available locally, the person having the child in custody shall immediately report the detention of the child to the presiding judge of the judicial administrative district, provided that the child shall not be detained in custody beyond the next judicial day or for good cause shown due to problems of arranging for and transporting the child to and from a secure juvenile detention center, beyond the second judicial day unless the court shall so order after a detention hearing to determine if there exists probable cause to detain the child. The child shall be present at the detention hearing or the image of the child may be broadcast to the judge by closed-circuit television or any other electronic means that provides for a two-way communication of image and sound between the child and the judge. If the latter judge cannot be reached, such detention shall be reported immediately to any judge regularly serving within the judicial administrative district. If detained, a reasonable bond for release shall be set. Pending further disposition of the case, a child whose custody has been assumed by the court may be released to the custody of a parent, legal guardian, legal custodian, or other responsible adult or to any other person appointed by the court, or be detained pursuant to Chapter 3 of the Oklahoma Juvenile Code in such place as shall be designated by the court, subject to further order.

C. When a child is taken into custody as a child in need of supervision, the child shall be detained and held temporarily in the custodial care of a peace officer or placed within a community intervention center as defined in subsection D of Section 2-7-305 of this title, a children's emergency resource center or host home, or be released to the custody of the parent of the child, legal guardian, legal custodian, attorney or other responsible adult, upon the written promise of such person to bring the child to court at the time fixed if a petition is to be filed. A child who is alleged or adjudicated to be in need of supervision shall not be detained in any jail, lockup, or other place used for adults convicted of a crime or under arrest and charged with a crime.

D. When any child is taken into custody pursuant to this title and it reasonably appears to the peace officer, employee of the court or person acting pursuant to court order that the child is in need of medical treatment to preserve the health of the child, any peace officer, any employee of the court or person acting pursuant to court order shall have the authority to authorize medical examination and medical treatment for any child found to be in need of medical treatment as diagnosed by a competent medical authority in the absence of the parent of the child, legal guardian, legal custodian, or other person having custody and control of the child who is competent to authorize medical treatment. The officer or the employee of the court or person acting pursuant to court order shall

authorize said medical treatment only after exercising due diligence to locate the parent of the child, legal guardian, legal custodian, or other person legally competent to authorize said medical treatment. The parent of the child, legal guardian, legal custodian, or other person having custody and control shall be responsible for such medical expenses as ordered by the court. No peace officer, any employee of the court or person acting pursuant to court order authorizing such treatment in accordance with the provisions of this section for any child found in need of such medical treatment shall have any liability, civil or criminal, for giving such authorization.

E. A child who has been taken into custody as otherwise provided by this Code who appears to be a minor in need of treatment, as defined by the Inpatient Mental Health and Substance Abuse Treatment of Minors Act, may be admitted to a behavioral health treatment facility in accordance with the provisions of the Inpatient Mental Health and Substance Abuse Treatment of Minors Act. The parent of the child, legal guardian, legal custodian, or other person having custody and control shall be responsible for such behavioral health expenses as ordered by the court. No peace officer, any employee of the court or person acting pursuant to court order authorizing such treatment in accordance with the provisions of this section for any child found in need of such behavioral health evaluation or treatment shall have any liability, civil or criminal, for giving such authorization.

F. 1. A child may be taken into custody pursuant to an order of the court specifying that the child is in need of medical treatment or other action to protect the health or welfare of the child and the parent, legal guardian, legal custodian, or other responsible adult having custody or control of a child is unwilling or unavailable to consent to such medical treatment or other action.

2. If the child is in need of immediate medical treatment or other action to protect the health or welfare of the child, the court may issue an emergency ex parte order upon application of the district attorney of the county in which the child is located. The application for an ex parte order may be verbal or in writing and shall be supported by facts sufficient to demonstrate to the court that there is reasonable cause to believe that the child is in need of immediate medical treatment or other action to protect the health or welfare of the child. The emergency ex parte order shall be in effect until a full hearing is conducted. A copy of the application, notice for full hearing and a copy of any ex parte order issued by the court shall be served upon such parent, legal guardian, legal custodian, or other responsible adult having custody or control of the child. Within twenty-four (24) hours of the filing of the application the court shall schedule a full hearing on the application, regardless of whether an emergency ex parte order had been issued or denied.

3. Except as otherwise provided by paragraph 2 of this subsection, whenever a child is in need of medical treatment to protect the health or welfare of the child, or whenever any other action is necessary to protect the health or welfare of the child, and the parent of the child, legal guardian, legal custodian, or other person having custody or control of the child is unwilling or unavailable to consent to such medical treatment or other action, the court, upon application of the district attorney of the county in which the child is located, shall hold a full hearing within five (5) days of filing the application. Notice of the hearing and a copy of the application shall be served upon the parent, legal guardian, legal custodian, or other person having custody or control of the child.

4. At any hearing held pursuant to this subsection, the court may grant any order or require such medical treatment or other action as is necessary to protect the health or welfare of the child.

5. a. The parent, legal guardian, legal custodian, or other person having custody or control of the child shall be responsible for such medical expenses as ordered by the court.

b. No peace officer, any employee of the court or person acting pursuant to court order authorizing such treatment in accordance with the provisions of this subsection for any child found in need of such medical treatment shall have any liability, civil or criminal.

G. As a part of the intake process, an employee of the Office of Juvenile Affairs or a county juvenile bureau shall inquire as to whether there is any American Indian lineage or ancestry that would make the child eligible for membership or citizenship in a federally recognized American Indian tribe or nation. If the employee of the Office of Juvenile Affairs or a county juvenile bureau determines that the child may have American Indian lineage or ancestry, the employee shall notify the primary tribe or nation of membership or citizenship within three (3) judicial days of completing an intake of such determination. Any information or records related to taking the child into custody shall be confidential, shall not be open to the general public, and shall not be inspected or their contents disclosed.

Added by Laws 1995, c. 352, § 114, eff. July 1, 1995. Amended by Laws 1996, c. 247, § 18, eff. July 1, 1996; Laws 1997, c. 293, § 15, eff. July 1, 1997; Laws 1998, c. 268, § 5, eff. July 1, 1998; Laws 2000, c. 177, § 5, eff. July 1, 2000; Laws 2002, c. 327, § 24, eff. July 1, 2002; Laws 2009, c. 234, § 40, emerg. eff. May 21, 2009. Renumbered from § 7303-1.1 of Title 10 by Laws 2009, c. 234, § 178, emerg. eff. May 21, 2009. Amended by Laws 2013, c. 404, § 4, eff. Nov. 1, 2013; Laws 2015, c. 261, § 1, eff. Nov. 1, 2015; Laws 2017, c. 254, § 3, eff. Nov. 1, 2017.

§10A-2-2-102. Personal jurisdiction.

A. 1. Upon the filing of a petition alleging the child to be in need of supervision, or upon the assumption of custody pursuant to Section 2-2-101 of this title, the district court of the county shall have jurisdiction where a child:

- a. resides,
- b. is found, or
- c. is alleged to be or is found to be in need of supervision.

2. The court shall have jurisdiction over any parent, legal custodian, legal guardian, stepparent of the child, or any adult person living in the home of the child regardless of where the parent, legal custodian, legal guardian, stepparent, or adult person living in the home of the child is found and who appears in court or has been properly served with a summons pursuant to Section 2-2-107 of this title.

3. When jurisdiction has been obtained over a child who is or is alleged to be in need of supervision, such may be retained until the child becomes eighteen (18) years of age.

4. For the convenience of the parties and in the interest of justice, a proceeding under the Oklahoma Juvenile Code, Article 2 of this title, may be transferred to the district court in any other county. However, prior to transferring a case to a different county, the court shall contact the judge in the other county to confirm that the judge will accept the transfer.

B. 1. Upon the filing of a petition alleging the child to be delinquent or upon the assumption of custody pursuant to Section 2-2-101 of this title, the district court of the county where the delinquent act occurred shall have jurisdiction of the child and over any parent, legal custodian, legal guardian, stepparent of the child or any adult person living in the home of the child regardless of where the parent, legal custodian, legal guardian, stepparent, or adult person living in the home of the child is found and who appears in court or has been properly served with a summons pursuant to Section 2-2-107 of this title.

2. When jurisdiction has been obtained over a child who is or is alleged to be a delinquent, jurisdiction may be retained until the child becomes nineteen (19) years of age upon the court's own motion, motion by the district attorney or motion by the Office of Juvenile Affairs, as provided in Section 2-7-504 of this title.

3. The juvenile proceeding may be filed before the child becomes eighteen (18) years of age; within one (1) year after the date of the eighteenth birthday of the child if the underlying act would constitute a felony if committed by an adult; or within six (6) months after the date of the eighteenth birthday if the underlying act would constitute a misdemeanor if committed by an adult.

C. The district court in which a petition is filed or the district court in which custody has been assumed pursuant to the provisions of Section 2-2-101 of this title may retain jurisdiction of a delinquent child in such proceeding notwithstanding the fact that the child is subject to the jurisdiction of another district court within the state. Any adjudication and disposition made by the court in which said petition is filed shall control over prior orders in regard to the child.

D. Except as otherwise provided in the Oklahoma Juvenile Code, a child who is charged with having violated any state statute or municipal ordinance, other than those enumerated in Section 2-5-101, 2-5-205 or 2-5-206 of this title, shall not be tried in a criminal action but in a juvenile proceeding.

E. If, during the pendency of a criminal charge against any person, it shall be ascertained that the person was a child at the time of committing the alleged offense, the district court or municipal court shall transfer the case, together with all the papers, documents and testimony connected therewith, to the juvenile division of the district court. The division making the transfer shall order the child to be taken forthwith to the place of detention designated by the juvenile division, to that division itself, or release the child to the custody of a suitable person to be brought before the juvenile division.

F. Nothing in this act shall be construed to prevent the exercise of concurrent jurisdiction by another division of the district court or by the municipal courts in cases involving children wherein the child is charged with the violation of a state or municipal traffic law or ordinance.

Added by Laws 1968, c. 282, § 102, eff. Jan. 13, 1969. Amended by Laws 1972, c. 122, § 3, emerg. eff. April 4, 1972; Laws 1977, c. 259, § 1, eff. Oct. 1, 1977; Laws 1989, c. 269, § 1, eff. Nov. 1, 1989; Laws 1990, c. 84, § 1, eff. Sept. 1, 1990; Laws 1990, c. 337, § 2; Laws 1991, c. 9, § 1, eff. Sept. 1, 1991; Laws 1991, c. 296, § 27, eff. Sept. 1, 1991; Laws 1991, c. 335, § 2, emerg. eff. June 15, 1991; Laws 1992, c. 5, § 1, eff. Sept. 1, 1992; Laws 1992, c. 298, § 16, eff. July 1, 1993; Laws 1992, c. 373, § 2, eff. July 1, 1992; Laws 1993, c. 74, § 1, eff. Sept. 1, 1993; Laws 1993, c. 342, § 2, eff. July 1, 1993; Laws 1994, c. 290, § 30, eff. July 1, 1994; Laws 1995, c. 145, § 1, eff. Nov. 1, 1995; Laws 1995, c. 217, § 1, eff. July 1, 1995; Laws 1995, c. 352, § 115, eff. July 1, 1995. Renumbered from § 1102 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1996, c. 305, § 1, eff. Nov. 1, 1996; Laws 1997, c. 2, § 2, emerg. eff. Feb. 26, 1997; Laws 1997, c. 210, § 1, eff. Nov. 1, 1997; Laws 1998, c. 127, § 1, eff. Nov. 1, 1998; Laws 1999, c. 365, § 6, eff. Nov. 1, 1999; Laws 2000, c. 194, § 1, eff. Nov. 1, 2000; Laws 2006, c. 124, § 7, eff. Nov. 1, 2006; Laws 2009, c. 234, § 41, emerg. eff. May 21, 2009. Renumbered from § 7303-1.2

of Title 10 by Laws 2009, c. 234, § 178, emerg. eff. May 21, 2009. Amended by Laws 2010, c. 278, § 15, eff. Nov. 1, 2010; Laws 2011, c. 1, § 6, emerg. eff. March 18, 2011; Laws 2013, c. 404, § 5, eff. Nov. 1, 2013.

NOTE: Laws 1989, c. 363, § 2 repealed by Laws 1990, c. 84, § 2, eff. Sept. 1, 1990. Laws 1990, c. 100, § 1 and Laws 1990, c. 238, § 2 repealed by Laws 1990, c. 337, § 26. Laws 1991, c. 226, § 1 repealed by Laws 1991, c. 335, § 37, emerg. eff. June 15, 1991. Laws 1992, c. 299, § 8 repealed by Laws 1992, c. 373, § 22, eff. July 1, 1992. Laws 1992, c. 273, § 1 repealed by Laws 1993, c. 42, § 2, emerg. eff. April 5, 1993. Laws 1993, c. 31, § 1 and Laws 1993, c. 42, § 1 repealed by Laws 1993, c. 342, § 10, eff. July 1, 1993. Laws 1995, c. 274, § 2 repealed by Laws 1996, c. 47, § 4, emerg. eff. April 8, 1996 and Laws 1996, c. 305, § 2, eff. Nov. 1, 1996. Laws 1996, c. 247, § 19 repealed by Laws 1997, c. 2, § 26, emerg. eff. Feb. 26, 1997. Laws 2010, c. 226, § 1 repealed by Laws 2011, c. 1, § 7, emerg. eff. March 18, 2011.

§10A-2-2-103. Municipal jurisdiction of children - Interlocal agreements - Municipal juvenile facility - Fines.

A. 1. A municipality with a population of at least twenty-five thousand (25,000) may, by written resolution filed with the district court, assume jurisdiction of cases involving children under eighteen (18) years of age charged with violating any municipal ordinance identified in the resolution.

2. Any other municipality may enter into an interlocal agreement with the district court pursuant to the Interlocal Cooperation Act, to assume jurisdiction of cases involving children under eighteen (18) years of age charged with violating any municipal ordinance as agreed by the district court, the district attorney and the municipality.

3. The chief juvenile judge of the district court judicial district, or if there is no chief judge then the presiding judge of the judicial administrative district, is hereby authorized to enter into the interlocal agreement as provided for in this section for and on behalf of said judicial district if the judge determines that the agreement is constitutional and complies with state and federal law.

B. 1. A child under eighteen (18) years of age who is taken into custody for the alleged violation of a municipal ordinance relating to truancy may be held pursuant to Section 10-109 of Title 70 of the Oklahoma Statutes.

2. A child under eighteen (18) years of age who is taken into custody for the alleged violation of a municipal ordinance relating to curfews may be held temporarily under the care of a peace officer or other person employed by a police department only until the parent of the child, legal guardian, legal custodian, attorney or other responsible adult assumes custody or, if such a person cannot be

located within a reasonable time of the taking of the child into custody or if such a person refuses to assume custody, until temporary shelter is found for the child. The temporary custody provided for by this paragraph shall be utilized as a means of returning the child to the home of the child or other place of shelter.

3. In no event shall the child be placed in a jail, lockup or adult detention facility. In no event shall the child be placed in a juvenile detention facility for more than twenty-four (24) hours, excluding weekends and holidays, prior to an initial court appearance and for an additional twenty-four (24) hours excluding weekends and holidays, immediately following an initial court appearance; provided, however, this provision shall not restrict or prohibit placing a child in a community intervention center pursuant to Section 9 of this act.

4. Notwithstanding any other provision of this Code, a child less than eighteen (18) years of age, who is taken into custody for the alleged violation of a municipal ordinance, and who can be prosecuted in municipal court for such offense pursuant to jurisdiction assumed by the municipal court pursuant to the provisions of paragraph 1 of this subsection, may be temporarily detained by the municipality in a municipal juvenile facility, as defined by this section, but only pursuant to the following conditions:

- a. the municipality shall immediately take all reasonable steps to attempt to locate the parent of the child, legal guardian, legal custodian, attorney or another responsible adult and determine if the parent, legal guardian, legal custodian, attorney or other responsible adult is willing to appear at the municipal juvenile facility and assume personal custody of the child upon the release of the child from such facility,
- b. the child shall be released to the personal custody of the parent of the child, legal guardian, legal custodian, attorney or other responsible adult as soon as practicable and upon the written promise of such person to return the child to municipal court to answer the municipal charges on the date and at the time set by the municipal court and to assume responsibility for costs for damages by the child if the child causes damages while committing any acts in violation of municipal ordinances. Municipalities may enact ordinances providing penalties for failure to comply with the written promise and for refusal to assume custody of a child in a timely manner,
- c. the child shall be detained in the municipal juvenile facility for no longer than twenty-four (24) hours;

provided, if the parent of the child, legal guardian, legal custodian, attorney or other responsible adult fails to appear at the municipal juvenile facility and assume personal custody of the child within said twenty-four-hour period, then custody or release of the child shall be determined pursuant to the provisions of Section 40 of this act,

- d. the child shall be provided with adequate fresh drinking water,
- e. the child shall be provided with adequate food not less than three times in a twenty-four-hour period,
- f. the child shall be provided with adequate bathroom facilities and bedding, and
- g. the child shall be provided with any necessary medical care and treatment.

C. For the purposes of this section, a "municipal juvenile facility" shall mean a secure facility which is entirely separate from any jail, adult lockup, or other adult facility, or is spatially separate if contained inside any jail, adult lockup, or other adult facility which is certified by the Office of Juvenile Affairs for the temporary detention of juveniles as authorized by the provisions of this section.

1. A municipal juvenile facility shall be certified by the Office of Juvenile Affairs pursuant to the applicable certification standards. The Office of Juvenile Affairs is directed to and shall establish standards for certification of municipal juvenile facilities to include but not be limited to the conditions set forth in subparagraphs a through g of paragraph 4 of subsection B of this section.

2. Each member of the staff of the municipal juvenile facility shall have satisfactorily completed a training program provided or approved by the Office of Juvenile Affairs. The Office of Juvenile Affairs is directed to and shall provide or approve an appropriate training program for staff members of such facilities.

3. A municipality may contract with an independent public or private facility properly certified by the Office of Juvenile Affairs for performance of the detention services authorized by the provisions of this section.

4. The provisions of this section shall not restrict or limit the use of municipal juvenile facilities for detention of juveniles who are detained pursuant to other provisions of law.

5. In no event shall a juvenile be held in an adult facility that does not meet the definition of a municipal juvenile facility.

D. 1. A child less than eighteen (18) years of age may be charged, prosecuted and, if convicted, fined for violating a municipal ordinance; provided, that the maximum fine which may be imposed shall not exceed the maximum fine authorized by law.

2. When assessing punishment, the court also may require appropriate community service work, not to exceed ninety (90) hours, in lieu of or in addition to a fine if the product of multiplying the number of hours of community service work by the prevailing minimum wage plus any fine imposed does not result in a number which exceeds the maximum fine authorized by law, or restitution, or both community service work and restitution. The court may also impose costs as authorized by law.

3. If the child fails to complete the community service, a parent or guardian of the child who knew or should have known that the child failed to complete the community service may be fined an amount equal to the number of community service hours that are not completed by the child multiplied by the hourly minimum wage amount.

4. In addition, during any calendar year that any child:

- a. fails to appear for a court date on more than one occasion,
- b. is convicted of two or more of the municipal offenses, which offenses occurred on different days, or
- c. fails to pay any fine or cost properly assessed by a municipal court,

and after the expiration of ninety (90) days, the court clerk shall mail notice of such occurrence to the Department of Public Safety, which Department shall thereafter suspend or deny driving privileges for such child for six (6) months. The suspension may be modified as provided in Section 6-107.2 of Title 47 of the Oklahoma Statutes. In addition, the court may require the child to receive counseling or other community-based services, as necessary.

E. If a child is prosecuted for an offense in a municipal court, the child shall not be prosecuted for the offense in the district court.

F. Any fines and costs properly assessed against any child and which remain unpaid after three (3) months may be assessed by the municipal judge against the parent of the child, parents, legal guardian or legal custodian and collected and paid as provided for in Articles XXVII and XXVIII of Title 11 of the Oklahoma Statutes. Provided however, prior to such latter assessment, the court clerk shall give the parent of the child, parents, legal guardian or legal custodian notice by certified mail to their place of residence or personal service of such action proposed to be taken.

G. All municipal arrest records, prosecution records, court records, and court proceedings for cases involving children less than eighteen (18) years of age charged with violating municipal ordinances shall be kept confidential and shall not be open to public inspection except by order of the municipal court or as otherwise provided by Chapter 6 of this Code and Section 620.6 of Title 10 of the Oklahoma Statutes. Municipal conviction records involving

children less than eighteen (18) years of age convicted of violating municipal ordinances shall be open to public inspection.

H. Funds generated from fines paid pursuant to an interlocal agreement between a municipality and the district court shall be earmarked and used by the municipality only for the following purposes:

1. To fund local programs which address problems of juvenile crime;

2. To fund the costs of prosecutions authorized pursuant to the provisions of this section;

3. To fund the costs of detention authorized pursuant to the provisions of this section;

4. To fund administrative costs related to local programs that address problems of juvenile crime or related to the prosecution, detention, or punishment authorized pursuant to the provisions of this section; and

5. To fund the costs of community intervention centers authorized pursuant to Section 9 of this act.

Such earmarked funds shall not be used by the municipality for any purpose other than the purposes set forth in paragraphs 1 through 5 of this subsection.

Added by Laws 2009, c. 234, § 108, emerg. eff. May 21, 2009.

#### §10A-2-2-104.1. Diversion services.

A. Diversion services shall be offered to children who are at risk of being the subject of a child-in-need-of-supervision petition. Diversion services shall be designed to provide an immediate response to families in crisis and to divert children from court proceedings. Diversion services may be provided by outside agencies as designated by the district courts, juvenile bureaus, court employees, or a combination thereof.

B. Diversion services shall clearly document diligent attempts to provide appropriate services to the child and the family of the child unless it is determined that there is no substantial likelihood that the child and family of the child will benefit from further diversion attempts.

C. Where the primary issue is truancy, steps taken by the school district to improve the attendance or conduct of the child in school shall be reviewed and attempts to engage the school district in further diversion attempts shall be made if it appears that such attempts will be beneficial to the child.

D. Efforts to prevent the filing of the petition may extend until it is determined that there is no substantial likelihood that the child and family of the child will benefit from further attempts. Efforts at diversion may continue after the filing of the petition where it is determined that the child and family of the child will benefit therefrom.

E. A child-in-need-of-supervision petition shall not be filed during the period that the designated agency, juvenile bureau, or court employee is providing the diversion services. A finding that the case has been successfully diverted shall constitute presumptive evidence that the underlying allegations have been successfully resolved.

F. The designated agency, juvenile bureau, or court employee shall promptly give written notice to the child and family of the child whenever attempts to prevent the filing of the petition have terminated and shall indicate in the notice whether the efforts were successful or whether a child-in-need-of-supervision petition should be filed with the court. A petition may or may not be filed where diversion services have been terminated because the parent or other person legally responsible for the child failed to consent to the diversion plan or failed to actively participate in the services provided.

Added by Laws 2013, c. 404, § 7, eff. Nov. 1, 2013.

§10A-2-2-104. Preliminary inquiry - Petition.

A. A preliminary inquiry shall be conducted to determine whether the interests of the public or of the child who is within the purview of the Oklahoma Juvenile Code require that further court action be taken. If it is determined by the preliminary inquiry that no further action be taken and if agreed to by the district attorney, the intake worker may make such informal adjustment without a petition.

B. In the course of the preliminary inquiry, the intake worker shall:

1. Hold conferences with the child and the parents, guardian or custodian of the child for the purpose of discussing the disposition of the referral made;

2. Interview such persons as necessary to determine whether the filing of a petition would be in the best interests of the child and the community;

3. Check existing records of any district court or tribal court, law enforcement agencies, Office of Juvenile Affairs, and Department of Human Services;

4. Obtain existing mental health, medical and educational records of the child with the consent of the parents, guardian or custodian of the child or by court order; and

5. Administer any screening and assessment instruments or refer for necessary screening and assessments to assist in the determination of any immediate needs of the child as well as the immediate risks to the community. All screening and assessment instruments shall be uniformly used by all intake workers, including those employed by juvenile bureaus, and shall be instruments specifically prescribed by the Office of Juvenile Affairs.

C. Upon review of any information presented in the preliminary inquiry, the district attorney may consult with the intake worker to determine whether the interests of the child and the public will be best served by the dismissal of the complaint, the informal adjustment of the complaint, or the filing of a petition.

D. Informal adjustment may be provided to the child by the intake worker only where the facts reasonably appear to establish prima facie jurisdiction and are admitted and where consent is obtained from the district attorney, the parent of the child, legal guardian, legal custodian, or legal counsel, if any, and the child. The informal adjustment is an agreement whereby the child agrees to fulfill certain conditions in exchange for not having a petition filed against the child. The informal adjustment shall be completed within a period of time not to exceed six (6) months and shall:

1. Be voluntarily entered into by all parties;
2. Be revocable by the child at any time by a written revocation;
3. Be revocable by the intake worker in the event there is reasonable cause to believe the child has failed to carry out the terms of the informal adjustment or has committed a subsequent offense;
4. Not be used as evidence against the child at any adjudication hearing;
5. Be executed in writing and expressed in language understandable to the persons involved; and
6. Become part of the juvenile record of the child.

E. The informal adjustment agreement under this section may include, among other suitable methods, programs and procedures, the following:

1. Participation in or referral to counseling, a period of community service, drug or alcohol education or treatment, vocational training or any other legal activity which in the opinion of the intake officer would be beneficial to the child and family of the child;
2. Require the child to undergo a behavioral health evaluation and, if warranted, undergo appropriate care or treatment;
3. Restitution providing for monetary payment by the parents or child to the victim who was physically injured or who suffered loss of or damage to property as a result of the conduct alleged. Before setting the amount of restitution, the intake officer shall consult with the victim concerning the amount of damages; or
4. Informal adjustment projects, programs and services may be provided through public or private agencies.

If the intake worker has reasonable cause to believe that the child has failed to carry out the terms of the adjustment agreement or has committed a subsequent offense, in lieu of revoking the agreement, the intake worker may modify the terms of the agreement and extend

the period of the agreement for an additional six (6) months from the date on which the modification was made with the consent of the child or counsel of the child, if any.

F. If an informal adjustment is agreed to pursuant to subsection D of this section, the informal adjustment agreement may require the child to pay a fee equal to no more than what the court costs would have been had a petition been filed. The child shall remit the fee directly to the agency responsible for the monitoring and supervision of the child. If the supervising agency is a juvenile bureau, then the fee shall be remitted to a revolving fund of the county in which the juvenile bureau is located to be designated the "Juvenile Deferral Fee Revolving Fund" and shall be used by the juvenile bureau to defray costs for the operation of the juvenile bureau. In those counties without juvenile bureaus and in which the Office of Juvenile Affairs or one of their contracting agencies provides the monitoring and supervision of the juvenile, the fee shall be paid directly to the Office of Juvenile Affairs and shall be used to defray the costs for the operation of the Office of Juvenile Affairs.

Added by Laws 1995, c. 352, § 116, eff. July 1, 1995. Amended by Laws 1998, c. 268, § 6, eff. July 1, 1998; Laws 2002, c. 473, § 2, eff. Nov. 1, 2002; Laws 2003, c. 3, § 7, emerg. eff. March 19, 2003; Laws 2007, c. 176, § 1, eff. Nov. 1, 2007; Laws 2009, c. 234, § 42, emerg. eff. May 21, 2009. Renumbered from § 7303-1.3 of Title 10 by Laws 2009, c. 234, § 178, emerg. eff. May 21, 2009. Amended by Laws 2013, c. 404, § 6, eff. Nov. 1, 2013.

NOTE: Laws 2002, c. 327, § 25 repealed by Laws 2003, c. 3, § 8, emerg. eff. March 19, 2003.

§10A-2-2-105. Order removing child from home prohibited absent certain determinations.

No order of the court providing for the initial or continued removal of a child alleged or adjudicated delinquent or in need of supervision from the child's home shall be entered unless the court finds that the continuation of the child in the home of the child is contrary to the welfare of the child. The order shall include either:

1. A determination as to whether or not reasonable efforts have been made to prevent the need for the removal of the child from the home or, as appropriate, reasonable efforts have been made to provide for the return of the child to the home; or

2. A determination as to whether or not an absence of efforts to prevent the removal of the child from the home is reasonable upon consideration of the family circumstances, the safety of the child and the protection of the public; or

3. A determination that reasonable efforts to prevent the removal of the child from the home or to reunify the child and family are not required because:

- a. a court of competent jurisdiction has determined that the parent has subjected the child to one of the following aggravated circumstances: abandonment, torture, chronic abuse, sexual abuse or chronic, life-threatening neglect of the child,
- b. a court of competent jurisdiction has determined that the parent has been convicted of one of the following:
  - (1) murder of another child of the parent,
  - (2) voluntary manslaughter of another child of the parent,
  - (3) aiding or abetting, attempting, conspiring, or soliciting to commit such a murder or such a voluntary manslaughter, or
  - (4) a felony assault that results in serious bodily injury to the child or another child of the parent, or
- c. the parental rights of the parent with respect to a sibling have been terminated involuntarily.

Added by Laws 1995, c. 352, § 117, eff. July 1, 1995. Amended by Laws 2002, c. 473, § 3, eff. Nov. 1, 2002; Laws 2009, c. 234, § 43, emerg. eff. May 21, 2009. Renumbered from § 7303-1.4 of Title 10 by Laws 2009, c. 234, § 178, emerg. eff. May 21, 2009.

§10A-2-2-106. Petition - Subsequent pleadings - Amended petitions.

A. If a child has been taken into custody pursuant to the provisions of the Oklahoma Juvenile Code before a petition has been filed, a petition shall be filed and summons issued within five (5) judicial days from the date of such assumption of custody, or custody of the child shall be relinquished to the parent of the child, legal guardian, legal custodian, or other responsible adult, unless otherwise provided for in the Oklahoma Juvenile Code.

B. No pleading subsequent to the petition is required, and the filing of any motion or pleading shall not delay the holding of the adjudicatory hearing.

C. A petition may be amended by order of the court at any time before an order of adjudication has been made, provided that the court shall grant the parties such additional time to prepare as may be required to insure a full and fair hearing. A petition shall be deemed to have been amended to conform to the proof where the proof does not change the substance of the act, omission or circumstance alleged. However, the court shall not amend the adjudicatory category prayed for in the petition.

D. A petition in a juvenile proceeding may be filed by the district attorney to determine if further action is necessary. The proceeding shall be entitled "In the matter of \_\_\_\_\_, an alleged (delinquent) or (a child alleged to be in need of

supervision)". The petition shall be verified and may be upon information and belief. It shall set forth:

1. With particularity facts which bring the child within the purview of the Oklahoma Juvenile Code;
2. The name, age and residence of the child;
3. The names and residences of the parents of the child;
4. The name and residence of the legal guardian of the child, if applicable;
5. The name and residence of the person or persons having custody or control of the child;
6. The name and residence of the nearest known relative, if no parent or guardian can be found;
7. The relief requested; and
8. The specific law under which the child is charged and an endorsement of witnesses intended to be called by the petitioner, where the child is sought to be adjudged a delinquent child.

E. A copy of the petition shall be attached to and served with the summons.

Added by Laws 1995, c. 352, § 118, eff. July 1, 1995. Amended by Laws 2009, c. 234, § 44, emerg. eff. May 21, 2009. Renumbered from § 7303-1.5 of Title 10 by Laws 2009, c. 234, § 178, emerg. eff. May 21, 2009.

§10A-2-2-107. Summons - Warrant - Service.

A. After a petition shall have been filed, unless the parties provided for in this section shall voluntarily appear, a summons shall be issued which shall recite briefly the nature of the proceeding with the phrase "as described more fully in the attached petition" and requiring the person or persons who have the custody or control of the child to appear personally and bring the child before the court at a time and place stated. The summons shall state the relief requested, and shall set forth the right of the child, parents and other interested parties to have an attorney present at the hearing on the petition.

B. The summons shall be served on the person who has actual custody of the child, and if the child has reached the age of twelve (12) years, a copy shall be served on the child. If the person who has actual custody of the child shall be other than a parent or guardian of the child, a copy of the summons shall be served on the parent or guardian, or both. A copy of the summons shall be served on a custodial parent, guardian or next friend. If no parent or guardian can be found, a summons shall be served on such other person or persons as the court shall designate.

Summons may be issued requiring the appearance of any other person whose presence is necessary.

C. If it subsequently appears that a person who should have been served was not served and has not entered an appearance, the court

shall immediately order the issuance of a summons which shall be served on said person.

D. Service of summons shall be made as provided for service in civil actions.

1. The court shall not hold the hearing until at least forty-eight (48) hours after the service of the summons, except with the consent of the parent or guardian of the child.

2. If the parent of the child is not served within the state, the court shall not hold the hearing until at least five (5) days after the date of mailing the summons, except with the consent of the parent.

E. If after a petition has been filed, it appears that the child is in such condition or surroundings that the welfare of the child requires that custody be immediately assumed by the court, the judge may immediately issue a detention order or warrant authorizing the taking of said child into emergency custody. Any such child shall not be considered to be in the custody of the Office of Juvenile Affairs.

F. In a delinquency proceeding, whenever a warrant for the arrest of a child shall issue, it shall state the offense the child is being charged with having committed. Warrants for the arrest or detention of a child shall comport with all other requirements of issuance of arrest warrants for adult criminal offenders.

G. In case the summons cannot be served, or the parties served fail to obey the same, or in any case when it shall be made to appear to the judge that the service will be ineffectual or that the welfare of the child requires that the child should be brought into the custody of the court, a warrant may be issued against the parent or guardian or against the child. Nothing in this section shall be construed to authorize placement of a child in secure detention who is not eligible for secure detention pursuant to Section 2-3-101 of this title.

Added by Laws 1995, c. 352, § 119, eff. July 1, 1995. Amended by Laws 1998, c. 268, § 7, eff. July 1, 1998; Laws 2009, c. 234, § 45, emerg. eff. May 21, 2009. Renumbered from § 7303-1.6 of Title 10 by Laws 2009, c. 234, § 178, emerg. eff. May 21, 2009. Amended by Laws 2013, c. 404, § 8, eff. Nov. 1, 2013.

§10A-2-2-108. Examination by health care professionals - Order for treatment.

A. After a petition under the provisions of this article has been filed, the court may order the child to be examined and evaluated for medical issues, including behavioral health diagnoses, by a physician or other appropriate professional to aid the court in making the proper disposition concerning the child.

B. Whenever a child concerning whom a petition has been filed appears to be in need of nursing, medical or surgical care, the court

may order the parent or other person responsible for the care and support of the child to provide such care in a hospital or otherwise. If the parent or other person fails to provide such care, the court may, after due notice, enter an order therefor, and the expense thereof, when approved by the court, shall be a charge upon the county, but the court may adjudge that the person having the duty under the law to support the child pay part or all of the expenses of such care. In an emergency the court may, when health or condition of the child may require it, cause the child to be placed in a public hospital or institution for treatment or special care, or in a private hospital or institution which will receive the child for like purpose, and consent to emergency treatment or surgery. Added by Laws 1995, c. 352, § 120, eff. July 1, 1995. Amended by Laws 2002, c. 327, § 26, eff. July 1, 2002; Laws 2009, c. 234, § 46, emerg. eff. May 21, 2009. Renumbered from § 7303-1.7 of Title 10 by Laws 2009, c. 234, § 178, emerg. eff. May 21, 2009.

§10A-2-2-301. Conduct of interrogations - Appointment of counsel - Guardians ad litem.

A. No information gained by a custodial interrogation of a youthful offender under sixteen (16) years of age or a child nor any evidence subsequently obtained as a result of such interrogation shall be admissible into evidence against the youthful offender or child unless the custodial interrogation about any alleged offense by any law enforcement officer or investigative agency, or employee of the court, or employee of the Office of Juvenile Affairs is done in the presence of the parents, guardian, attorney, adult relative, adult caretaker, or legal custodian of the youthful offender or child. No such custodial interrogation shall commence until the youthful offender or child and the parents, guardian, attorney, adult relative, adult caretaker, or legal custodian of the youthful offender or child have been fully advised of the constitutional and legal rights of the youthful offender or child, including the right to be represented by counsel at every stage of the proceedings, and the right to have counsel appointed by the court if the parties are without sufficient financial means; provided, however, that no legal aid or other public or charitable legal service shall make claim for compensation as contemplated herein. It is further provided that where private counsel is appointed in such cases, the court shall set reasonable compensation and order the payment out of the court fund. As used in this section, "custodial interrogation" means questioning of a youthful offender under sixteen (16) years of age or child while that youthful offender or child is in law enforcement custody or while that youthful offender or child is being deprived of freedom of action in any significant way by a law enforcement officer, employee of the court, or employee of the Office. Custodial interrogation shall conform with all requirements for interrogation of adult

criminal offenders. The term "custodial interrogation" shall not be deemed to mean questioning of a youthful offender or child by a public school administrator or teacher, so long as such questioning is not being conducted on behalf of a law enforcement officer, an employee of the court or an employee of the Office. Any information gained from noncustodial questioning of a child or youthful offender by a public school administrator or teacher concerning a wrongful act committed on public school property shall be admissible into evidence against the youthful offender or child.

B. A custodial interrogation of a youthful offender over sixteen (16) years of age shall conform with all the requirements for the interrogation of an adult.

C. If the youthful offender or child is not otherwise represented by counsel, whenever a petition is filed pursuant to the provisions of Section 2-2-104 or Section 2-5-201 et seq. of this title, the court shall appoint an attorney, who shall not be a district attorney, for the youthful offender or child regardless of any attempted waiver by the parent or other legal custodian of the youthful offender or child of the right of the youthful offender or child to be represented by counsel. The youthful offender or child shall be represented by counsel at every hearing or review through completion or dismissal of the case. Counsel shall be appointed by the court only upon determination by the court that the parent, legal guardian or legal custodian is found to be indigent. If indigency is established, the Oklahoma Indigent Defense System shall represent the child in accordance with Section 1355.6 of Title 22 of the Oklahoma Statutes or the applicable office of the county indigent defender shall represent the child in accordance with Section 138.5 of Title 19 of the Oklahoma Statutes. Provided, if the parent or legal guardian of a child is not indigent but refuses to employ counsel, the court shall appoint counsel to represent the child at detention hearings until counsel is provided. Costs of representation shall be imposed on the parent or other legal custodian as provided by Section 138.10 of Title 19 of the Oklahoma Statutes. Thereafter, the court shall not appoint counsel for a child with a nonindigent parent or legal custodian and shall order the parent or legal custodian to obtain counsel. A parent or legal custodian of an indigent child who has been ordered to obtain counsel for the child and who willfully fails to follow the court order shall be found in indirect contempt of court.

D. In all cases of juvenile delinquency, adult certification, reverse certification, or youthful offender proceedings and appeals, or any other proceedings and appeals pursuant to the Oklahoma Juvenile Code, except mental health or in-need-of-supervision proceedings and appeals, and any other juvenile proceedings that are civil in nature, and other than in counties where the office of the county indigent defender is appointed, the Oklahoma Indigent Defense

System shall be appointed to represent indigent juveniles as provided for in the Indigent Defense Act. In all other cases pursuant to this title, including juvenile proceedings that are civil in nature, juvenile mental health or in-need-of-supervision proceedings and appeals, with the exception of proceedings in counties where the office of the county indigent defender is appointed, the court shall, if counsel is appointed and assigned, allow and direct to be paid from the local court fund a reasonable and just compensation to the attorney or attorneys for such services as they may render; provided, that any attorney appointed pursuant to this subsection shall not be paid a sum in excess of One Hundred Dollars (\$100.00) for services rendered in preliminary proceedings, Five Hundred Dollars (\$500.00) for services rendered during trial, and One Hundred Dollars (\$100.00) for services rendered at each subsequent post-disposition hearing.

E. Counsel for the child shall advise the child and advocate the expressed wishes of the child, as much as reasonably possible, under the same ethical obligations as if the client were an adult. Upon motion by the state, the child, the attorney for the child, or a parent or legal custodian of the child, the court shall appoint a guardian ad litem.

F. The guardian ad litem shall not be a district attorney, an employee of the office of the district attorney, an employee of the court, an employee of a juvenile bureau, or an employee of any public agency having duties or responsibilities towards the child. The guardian ad litem shall be given access to the court file and access to all records and reports relevant to the case and to any records and reports of examination of the child's parent or other custodian, made pursuant to this section or Section 1-2-101 of this title. Provided, nothing in this subsection shall obligate counsel for the child to breach attorney-client confidentiality with the child. Added by Laws 1995, c. 352, § 123, eff. July 1, 1995. Amended by Laws 1997, c. 293, § 16, eff. July 1, 1997; Laws 2009, c. 234, § 47, emerg. eff. May 21, 2009. Renumbered from § 7303-3.1 of Title 10 by Laws 2009, c. 234, § 179, emerg. eff. May 21, 2009. Amended by Laws 2013, c. 404, § 9, eff. Nov. 1, 2013; Laws 2018, c. 155, § 1, eff. Nov. 1, 2018.

#### §10A-2-2-401.1. Definitions.

As used in this act:

1. "Competent" and "competency" refer to a child's ability to understand the nature and objectives of a proceeding against the child or to assist in the child's defense. A child is incompetent if, due to developmental disability, developmental immaturity, intellectual disability, or mental illness, the child is presently incapable of understanding the nature and objective of proceedings against the child or of assisting in the child's defense;

2. "Credentialed forensic evaluator" means a licensed psychologist, psychiatrist or other physician with necessary education, training, and experience to perform juvenile competency evaluations, and who has been approved to render such opinions for the court;

3. "Developmental disability" means a severe and chronic disability that is attributable to a mental or physical impairment. Such disabilities include, but are not limited to, cerebral palsy, epilepsy, autism, or other neurological conditions that lead to impairment of general intellectual functioning or adaptive behavior;

4. "Developmental immaturity" means a condition based on a juvenile's chronological age and significant lack of developmental skills when the juvenile has no significant mental illness or intellectual disability;

5. "Intellectual disability" means a disability characterized by significant limitations both in intellectual functioning and in adaptive behavior as expressed in conceptual, social and practical adaptive skills;

6. "Mental illness" has the same meaning as in paragraph 11 of Section 5-502 of Title 43A of the Oklahoma Statutes;

7. "Proceeding" means any delinquency proceeding under the Oklahoma Juvenile Code.

Added by Laws 2015, c. 398, § 1, eff. Jan. 1, 2016.

§10A-2-2-401.2. Delinquency proceedings - Competency of child - Rebuttable presumption.

A. 1. At any time prior to or during delinquency proceedings pursuant to the Oklahoma Juvenile Code, the child's attorney, the district attorney, or the court may raise the issue of a child's competency to participate in the proceeding. If at the time the issue of competency is raised the child is not represented by counsel, the court shall immediately appoint counsel. The court shall stay all proceedings except to allow the filing of a delinquency petition.

2. In any delinquency proceeding pursuant to the Juvenile Code, if the child who is the subject of the proceeding is thirteen (13) years or older and if the child is not otherwise found to be developmentally disabled, developmentally immature, intellectually disabled, or mentally ill, there exists a rebuttable presumption that the child is competent. Such presumption applies only for making a determination as to whether the child is competent and shall not be used or applicable for any other purpose.

B. The court may find a child incompetent without ordering a competency evaluation or hearing if the district attorney and the child's attorney, and at least one of the child's parents, legal guardians, or guardian ad litem agree to the determination.

Added by Laws 2015, c. 398, § 2, eff. Jan. 1, 2016.

§10A-2-2-401.3. Motion for determination of competency - Competency evaluation.

A. When the district attorney or the child's attorney has reasonable basis to believe that a child is incompetent to proceed in the delinquency action, the party shall file a motion for determination of competency. The motion shall state that the child is incompetent to proceed and shall state facts sufficient to set forth the reasonable basis to conduct a competency evaluation. If the court raises the issue sua sponte, the court by written order shall set forth the reasonable basis that the child is incompetent to proceed.

B. Within five (5) judicial days after the motion is made, the court shall make one of the following determinations:

1. That the child is incompetent pursuant to subsection B of Section 2 of this act; or

2. Without conducting a hearing, that there exists a reasonable basis to conduct a competency evaluation; or

3. To schedule a hearing to determine whether there exists a reasonable basis to conduct a competency evaluation. Such hearing shall be held within ten (10) judicial days. The court's determination shall be announced no later than one (1) judicial day after the conclusion of the hearing.

C. If the court determines there is a reasonable basis for a competency evaluation or if the district attorney and the child's attorney agree to the evaluation, the court shall order a competency evaluation. If the court orders a competency evaluation, the court shall order that the competency evaluation be conducted in the least-restrictive environment, taking into account the public safety and the best interests of the child.

1. The court shall provide in its order that the evaluator shall have access to all relevant confidential and public records related to the child, including competency evaluations and reports conducted in prior delinquent proceedings. The court shall provide to the evaluator a copy of the petition and the names and contact information for the judge, district attorney, child's attorney, and parents or legal guardians.

2. Within five (5) judicial days after the court orders an evaluation, the district attorney shall deliver to the evaluator copies of relevant police reports and other background information relevant to the child that are in the district attorney's possession.

3. Within five (5) judicial days after the court orders an evaluation, the child's attorney shall deliver to the evaluator copies of relevant police reports and other relevant records including, but not limited to, educational, medical, psychological, and neurological records that are relevant to the evaluation and that are in the attorney's possession.

Added by Laws 2015, c. 398, § 3, eff. Jan. 1, 2016.

§10A-2-2-401.4. Credentialed forensic evaluators - Exceptions.

A. An evaluation ordered by the court shall be conducted by a credentialed forensic evaluator.

1. A credentialed forensic evaluator shall demonstrate education or training in the following areas as necessary for the focus of the evaluation ordered by the court:

- a. forensic evaluation procedures for juveniles, including accepted criteria used in evaluating competency,
- b. evaluation, diagnosis, and treatment of children and adolescents with developmental disability, developmental immaturity, intellectual disability, or mental illness,
- c. clinical understanding of child and adolescent development, and
- d. familiarity with competency standards in this state.

2. The Oklahoma Commission on Children and Youth shall establish procedures for ensuring the training and qualifications of individuals approved to conduct juvenile competency evaluations. The Commission shall provide a list of credentialed forensic evaluators to the Administrative Office of the Courts.

B. A court may appoint as evaluator a psychologist, psychiatrist, or other physician who does not meet the requirements of subsection A of this section only if exigent circumstances require the evaluator to have specialized expertise to examine the child that would not ordinarily be possessed by a psychologist, psychiatrist, or other physician who meets the requirements of a credentialed forensic evaluator.

Added by Laws 2015, c. 398, § 4, eff. Jan. 1, 2016.

§10A-2-2-401.5. Competency evaluation report.

A. The evaluator shall file with the court a written competency evaluation report within thirty (30) days after the date of the order of appointment. For good cause shown, the court may extend the time for filing for a period not to exceed thirty (30) days. The report shall include the evaluator's opinion as to whether the child, due to developmental disability, developmental immaturity, intellectual disability, or mental illness, is currently incapable of understanding the nature and objective of the proceedings against the child or of assisting in the child's defense. The report shall not include the evaluator's opinion as to the details of the alleged offense as reported by the child, or an opinion as to whether the child actually committed the offense or could be culpable for committing the offense. No statement made by a child during an evaluation or hearing conducted pursuant to this act shall be used

against the child on the issue of responsibility or guilt in subsequent court proceedings.

B. A competency evaluation report shall address the following questions:

1. Whether the child is able to understand and appreciate the charges and their seriousness;

2. Whether the child is able to consult with an attorney and rationally and factually assist in his or her defense;

3. Whether the child can understand and reasonably participate in the proceedings;

4. If the answer to question 1, 2 or 3 is no, whether the child can attain competency within a reasonable time pursuant to Section 7 of this act if provided with a course of treatment, therapy, or training;

5. Whether the child poses an imminent threat to the life or safety of him or herself or others; and

6. Whether the child is mentally ill or is a minor in need of treatment as defined by the Inpatient Mental Health and Substance Abuse Treatment of Minors Act.

C. If the evaluator concludes that the child's competency is impaired, but that the child may be rendered competent by reasonable accommodations, the report shall include recommendations for reasonable accommodations which the court shall order to assist in compensating for the competency impairments.

D. If the evaluator concludes there is a substantial probability that the child could attain competency within the periods set forth in subparagraph a of paragraph 3 of subsection C of Section 7 of this act, the competency evaluation report shall include a recommendation as to the least restrictive setting for child competency attainment services consistent with the child's ability to attain competency and the safety of both the child and the public.

E. The competency evaluation report shall also include:

1. The evaluation procedures used, including psychometric tests administered, records reviewed, and identity of persons interviewed;

2. Pertinent background information, including history of educational performance, psychiatric history, and family history;

3. Results of mental status examination; and

4. A description of any psychiatric symptoms or cognitive deficiencies, including a diagnosis, if one has been made.

F. The court shall provide a copy of each competency evaluation report it receives to the district attorney and the child's attorney, and may provide a copy upon request to the child's parents, legal guardian, and guardian ad litem, if one was appointed.

G. The expense of an evaluation ordered by the court may be recovered from the child or the child's parents or legal guardians based upon their ability to pay. Expenses associated with missed

appointments may be recovered from the child's parents or legal guardians.

Added by Laws 2015, c. 398, § 5, eff. Jan. 1, 2016.

§10A-2-2-401.6. Competency hearing.

A. Not more than fifteen (15) judicial days after receiving the evaluator's report, the court shall conduct a hearing to determine the child's competency to participate in the proceeding. The court may continue the hearing for good cause shown.

B. The competency evaluation report shall be admissible in evidence. The evaluator may be called as a witness and be subject to cross examination by all parties. If authorized by the court, hearings held pursuant to this section may be conducted via teleconference or videoconference. If the court contacts the evaluator to obtain clarification of the report contents, the court shall promptly inform all parties and allow each party to participate in each contact.

C. In determining the competency of the child to participate in the proceeding the court shall consider the content of all competency evaluation reports admitted as evidence. The court may consider additional evidence introduced at the hearing by the district attorney and the child's attorney.

D. 1. Except as otherwise provided, the court shall make a written determination as to the child's competency based on a preponderance of the evidence within ten (10) judicial days after completion of the hearing. The burden of proof shall be on the moving party.

2. The court shall not find a child incompetent to proceed solely because the child is receiving or has received in-patient treatment as a voluntary or involuntary mentally ill patient pursuant to Section 5-501 et seq. of Title 43A of the Oklahoma Statutes, or is receiving or has received psychotropic or other medication, even if the child might become incompetent to proceed without that medication.

Added by Laws 2015, c. 398, § 6, eff. Jan. 1, 2016. Amended by Laws 2019, c. 167, § 1, eff. Nov. 1, 2019.

§10A-2-2-401.7. Court responses to competency determination.

A. After a hearing pursuant to Section 6 of this act, if the court determines by a preponderance of the evidence that the child is competent to proceed, the delinquency proceedings shall be resumed as provided by law.

B. After a hearing pursuant to Section 6 of this act, if the court determines by the preponderance of the evidence that the child is incompetent to proceed and cannot attain competency within the period of time application under subparagraph a of paragraph 3 of

subsection C of this section, the court shall dismiss the petition without prejudice, and take either of the following actions:

1. Refer the matter to the Oklahoma Department of Human Services and request a determination whether a deprived action should be filed in accordance with the Oklahoma Children's Code alleging that the child is a neglected, abused or dependent child; or

2. Refer the matter to the district attorney for consideration of initiating a Child in Need of Supervision or Minor in Need of Mental Health and Substance Abuse Treatment proceeding in accordance with the Oklahoma Juvenile Code or Inpatient Mental Health and Substance Abuse Treatment of Minors Act.

C. If the court determines by a preponderance of the evidence that a child is incompetent to proceed but may likely attain competency, the court shall stay the proceedings and order the child to receive services designated to assist the child in attaining competency, based upon the recommendations in the competency evaluation report unless the court makes specific findings that the recommended services are not justified. The court shall order the child's parent or legal guardian to contact a court-designated provider by a specified date to arrange for services.

1. The competency attainment services provided to a child shall be based on a court-approved competency attainment plan described in paragraph 2 of subsection D of this section, and are subject to the conditions and time periods required pursuant to this section measured from the date the court approves the plan.

2. The court shall order that the competency attainment services ordered are provided in the least-restrictive environment, taking into account the public safety and the best interests of the child. If the child has been released on temporary orders and refuses or fails to cooperate with the service provider, the court may modify the orders to require a more appropriate setting.

3. No child shall be required to participate in competency attainment services for longer than is required to attain competency. The following maximum periods of participation shall apply:

- a. if the services are provided, the child shall not participate in those services for a period exceeding six (6) months or upon the child's 18th birthday, or up to the child's 19th birthday if ordered by the court in order to complete the six months of treatment, if the child is charged with an act that would be a misdemeanor if committed by an adult,
- b. if the services are provided, the child shall not participate for a period exceeding twelve (12) months or upon the child's 18th birthday, or up to the child's 19th birthday if ordered by the court in order to complete the twelve months of treatment, if the child

is charged as a delinquent for an act that would be a felony if committed by an adult.

D. 1. Within ten (10) judicial days after the court orders the provider responsible for the child's competency attainment services, the court shall deliver to that provider:

- a. the name and address of the child's counsel,
- b. a copy of the child's Petition,
- c. a copy of the competency evaluation report,
- d. the name, address, and phone number of the child's parents or legal guardian,
- e. the name of the Office of Juvenile Affairs employee or Juvenile Bureau employee responsible for the intake, supervision, or custody of the child, if adjudicated,
- f. the name of the Department of Human Services caseworker, if any, and
- g. any other relevant documents or reports concerning the child's health that have come to the attention of the court.

2. Not later than ten (10) judicial days after the child contacts the competency attainment provider, a plan for the child to attain competency shall be submitted to the court by the provider. The court shall provide copies of the plan to the district attorney, the child's attorney, the guardian ad litem, if any, the Office of Juvenile Affairs or Juvenile Bureau, and the child's parent or legal guardian.

E. The provider shall submit reports to the court pursuant to the following schedule:

1. Every ninety (90) calendar days and upon completion or the termination of services. Each report shall include the following:

- a. the services provided to the child, including medication, education and counseling,
- b. the likelihood that the competency of the child to proceed will be restored within the applicable period of time set forth in subparagraph a of paragraph 3 of subsection C of this section, and
- c. the progress made towards the goals and objectives for the restoration of competency identified in the recommendations from the competency evaluation as adopted by the court;

2. Three (3) judicial days after the provider's determination that the child is not cooperating to a degree that would allow the services to be effective to help the child attain competency;

3. Three (3) judicial days after the provider's determination that the current setting is no longer the least restrictive setting that is consistent with the child's ability to attain competency and taking into account the public safety and the best interests of the child. The provider shall include in the report an assessment of the

danger the child poses to himself, herself or others and an assessment of the appropriateness of the placement;

4. Three (3) judicial days after the provider's determination that the child has achieved the goals of the plan and would be able to understand the nature and objectives of the proceedings against the child, to assist in the child's defense, and to understand and appreciate the consequences that may be imposed or result from the proceedings with or without reasonable accommodations. The report shall include recommendations for the accommodations that would be necessary or advantageous; and

5. Three (3) judicial days after the provider's determination that the child will not achieve the goals of the plan within the applicable period of time pursuant to subparagraph a of paragraph 3 of subsection C of this section. The report shall include recommendations for services for the child and taking into account the public safety and the best interests of the child.

F. The court shall provide copies of any report made by the provider to the district attorney, the child's attorney, the child's intake worker, and the child's guardian ad litem, if any. The Court shall provide copies of any reports made by the provider to the child's parents or legal guardians, unless the court finds that doing so is not in the best interest of the child.

G. Within fifteen (15) judicial days after receiving a provider's report, the court may hold a hearing to determine if a new order is necessary.

1. If the court determines that the child is not making progress toward competency or is so uncooperative that attainment services cannot be effective, the court may order a change in setting or services that would help the child attain competency within the relevant period of time as set forth in subparagraph a of paragraph 3 of subsection C of this section.

2. If the court determines that the child has not or will not attain competency within the relevant period of time as set forth in subparagraph a of paragraph 3 of subsection C of this section, the court shall dismiss the delinquency charge without prejudice.

3. A dismissal under paragraph 2 of this subsection shall not preclude a future delinquent child proceeding as provided for under Title 10A of the Oklahoma Statutes.

H. After a hearing held pursuant to subsection G of this section, the court determines that the child has attained competency, the court shall proceed with the delinquent child's proceeding in accordance with the provisions of the Juvenile Code.

I. A dismissal under this section does not bar a civil action based on the acts or omissions that formed the basis of the petition. Added by Laws 2015, c. 398, § 7, eff. Jan. 1, 2016.

§10A-2-2-401. Trial by jury.

In adjudicatory hearings to determine if a child is delinquent or in need of supervision, any person entitled to service of summons or the state shall have the right to demand a trial by jury, which shall be granted as in other cases, unless waived, or the judge on the judge's own motion may call a jury to try any such case. Such jury shall consist of six persons.

Added by Laws 1995, c. 352, § 124, eff. July 1, 1995. Renumbered from § 7303-4.1 of Title 10 by Laws 2009, c. 234, § 180, emerg. eff. May 21, 2009.

§10A-2-2-402. Conduct of adjudicative hearings.

A. All cases of children shall be heard separately from the trial of cases against adults. The adjudicative hearings shall be conducted according to the rules of evidence, and may be adjourned from time to time.

1. Except as provided by paragraph 2 of this subsection, the hearings shall be private; however, all persons having a direct interest in the case as provided in this paragraph shall be admitted. Any victim, relative, legal guardian of a victim, or a person designated by the victim who is not subject to the rule of sequestration as a witness of a delinquent act shall be considered to have a direct interest in the case, shall be notified of all court hearings involving that particular delinquent act, and shall be admitted to the proceedings. The court shall, however, remove all persons not having a direct interest in the case or that are not the parents or legal guardian of the child from any hearing where evidence of the medical or behavioral health condition of the child or specific instances of deprivation are being presented. Stenographic notes or other transcript of the hearings shall be kept as in other cases, but they shall not be open to inspection except by order of the court or as otherwise provided by law.

2. Hearings related to the second or subsequent delinquency adjudication of a child shall be public proceedings. The adjudications relied upon to determine whether a hearing is a public proceeding pursuant to this paragraph shall not have arisen out of the same transaction or occurrence or series of events closely related in time and location. Upon its own motion or the motion of any of the parties to the hearing and for good cause shown, the court may order specific testimony or evidence to be heard in private; provided, the court shall not exclude any relative, legal guardian of a victim, or a person designated by the victim who is not subject to the rule of sequestration as a witness from the hearing during testimony of the victim. For the purposes of this paragraph, "good cause" shall mean a showing that it would be substantially harmful to the mental or physical well-being of the child if such testimony or evidence were presented at a public hearing. The judge may, for good cause shown, open the court hearings to educate members of the public

about juvenile justice issues; however, the identities of the juvenile respondents shall not be published in any reports or articles of general circulation.

B. The child may remain silent as a matter of right in delinquency hearings and in need of supervision hearings, and before the child testifies, the child shall be so advised.

C. A decision determining a child to come within the purview of the Oklahoma Juvenile Code shall be based on sworn testimony and the child shall have the opportunity for cross-examination unless the facts are stipulated or unless the child enters into a stipulation that the allegations of the petition are true or that sufficient evidence exists to meet the burden of proof required for the court to sustain the allegations of the petition. In proceedings pursuant to the Oklahoma Juvenile Code, the court may allow mileage as in civil actions to witnesses and reimbursement for expert witnesses but such shall not be tendered in advance of the hearing. If a child is alleged to be delinquent and the facts are stipulated, the judge shall ascertain from the child if the child agrees with the stipulation and if the child understands the consequences of stipulating the facts.

D. If the court finds that the allegations of a petition alleging a child to be delinquent or in need of supervision are supported by the evidence, the court shall sustain the petition, and shall make an order of adjudication setting forth whether the child is delinquent or in need of supervision and shall adjudge the child as a ward of the court.

E. If the court finds that the allegations of the petition are not supported by the evidence, the court shall order the petition dismissed and shall order the child discharged from any detention or restriction previously ordered. The parents, legal guardian or other legal custodian of the child shall also be discharged from any restriction or other previous temporary order.

F. Any arrest or detention under the Oklahoma Juvenile Code or any adjudication in a juvenile proceeding shall not be considered an arrest, detention or conviction for purposes of employment, civil rights, or any statute, regulation, license, questionnaire, application, or any other public or private purposes, unless otherwise provided by law.

Added by Laws 1995, c. 352, § 125, eff. July 1, 1995. Amended by Laws 1997, c. 82, § 1, eff. July 1, 1997; Laws 2009, c. 234, § 48, emerg. eff. May 21, 2009. Renumbered from § 7303-4.2 of Title 10 by Laws 2009, c. 234, § 180, emerg. eff. May 21, 2009. Amended by Laws 2013, c. 404, § 10, eff. Nov. 1, 2013; Laws 2014, c. 417, § 1, emerg. eff. June 3, 2014.

§10A-2-2-403. Preliminary hearing.

A. Except as otherwise provided by law, if a child is charged with a delinquent act as a result of an offense which would be a felony if committed by an adult, the court on its own motion or at the request of the district attorney shall conduct a preliminary hearing to determine whether or not there is prosecutive merit to the complaint. If the court finds that prosecutive merit exists, it shall continue the hearing for a sufficient period of time to conduct an investigation and further hearing to determine if the child should be held accountable for acts of the child as if the child were an adult if the child should be found to have committed the alleged act or omission.

Consideration shall be given to:

1. The seriousness of the alleged offense to the community, and whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner;
2. Whether the offense was against persons or property, greater weight being given to transferring the accused person to the adult criminal justice system for offenses against persons and, if personal injury resulted, the degree of personal injury;
3. The sophistication and maturity of the juvenile and capability of the juvenile of distinguishing right from wrong as determined by consideration of a psychological evaluation of the juvenile, home, environmental situation, emotional attitude and pattern of living;
4. The record and previous history of the accused person, including previous contacts with community agencies, law enforcement agencies, schools, juvenile or criminal courts and other jurisdictions, prior periods of probation or prior commitments to juvenile institutions;
5. The prospects for adequate protection of the public;
6. The likelihood of reasonable rehabilitation of the juvenile if the juvenile is found to have committed the alleged offense, by the use of procedures and facilities currently available to the juvenile court; and
7. Whether the offense occurred while the juvenile was escaping or in an escape status from an institution for delinquent children.

After the investigation and hearing, the court may in its discretion proceed with the juvenile proceeding, or it shall state its reasons in writing and shall certify, based on clear and convincing evidence, that the child shall be held accountable for acts of the child as if the child were an adult and shall be held for proper criminal proceedings for the specific offense charged, by any other division of the court which would have trial jurisdiction of the offense if committed by an adult. The juvenile proceeding shall not be dismissed until the criminal proceeding has commenced and if no criminal proceeding commences within thirty (30) days of the date of the certification, unless stayed pending appeal, the court shall

proceed with the juvenile proceeding and the certification shall lapse.

If not included in the original summons, notice of a hearing to consider whether a child should be certified for trial as an adult shall be given to all persons who are required to be served with a summons at the commencement of a juvenile proceeding, but publication in a newspaper when the address of a person is unknown is not required. The purpose of the hearing shall be clearly stated in the notice.

B. Prior to the entry of any order of certification, any child in custody shall have the same right to be released upon bail as would an adult under the same circumstances. Subsequent to the entry of an order that a child stand trial as an adult, the child shall have all the statutory and constitutional rights and protections of an adult accused of a crime but shall, while awaiting trial and for the duration of the trial, be detained in a jail cell or ward entirely separate from prisoners who are eighteen (18) years of age or over. Upon conviction, the juvenile may be incarcerated with the adult population. If, prior to the entry of any order of certification, the child becomes eighteen (18) years of age, the child may be detained in a county jail or released on bail. If a child is certified to stand trial as an adult, the court shall make every effort to avoid duplication of the adult preliminary hearing and the prosecutorial hearing in the juvenile certification process. The parties may jointly stipulate to the court that the record for the prosecutorial merit hearing in the juvenile proceeding be used for all or part of the preliminary hearing.

C. Any child who has been certified to stand trial as an adult pursuant to any order entered by any competent court of this state or any other state shall be tried as an adult in all subsequent criminal prosecutions, and shall not be subject to the jurisdiction of the juvenile court or be eligible to be tried as a youthful offender in any further proceedings.

D. An order either certifying a person as a child or an adult pursuant to subsection A of this section or denying such certification shall be a final order, appealable when entered and shall not be modified.

Added by Laws 1968, c. 282, § 112, eff. Jan. 13, 1969. Amended by Laws 1973, c. 227, § 1, emerg. eff. May 24, 1973; Laws 1974, c. 272, § 2, emerg. eff. May 29, 1974; Laws 1977, c. 79, § 2; Laws 1978, c. 231, § 2, eff. Oct. 1, 1978; Laws 1979, c. 257, § 4, eff. Oct. 1, 1979; Laws 1981, c. 141, § 1; Laws 1988, c. 76, § 2, emerg. eff. March 25, 1988; Laws 1989, c. 363, § 7, eff. Nov. 1, 1989; Laws 1993, c. 342, § 7, eff. July 1, 1993; Laws 1994, c. 290, § 39, eff. July 1, 1994; Laws 1995, c. 352, § 126, eff. July 1, 1995. Renumbered from § 1112 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1997, c. 293, § 17, eff. July 1, 1997; Laws 2004, c.

75, § 1, eff. Nov. 1, 2004; Laws 2009, c. 234, § 49, emerg. eff. May 21, 2009. Renumbered from § 7303-4.3 of Title 10 by Laws 2009, c. 234, § 180, emerg. eff. May 21, 2009.

NOTE: Laws 1974, c. 35, § 1 repealed by Laws 1974, c. 272, § 3, emerg. eff. May 29, 1974.

§10A-2-2-404. Deferral of delinquency adjudication proceedings.

A. A court may defer delinquency adjudication proceedings for one hundred eighty (180) days, plus an additional one hundred eighty (180) days as provided in subsection C of this section, if the child:

1. Is alleged to have committed or attempted to commit a delinquent offense that if committed by an adult would be a misdemeanor or a felony;

2. Enters into a stipulation that the allegations are true or that sufficient evidence exists to meet the burden of proof required for the court to sustain the allegations of the petition; and

3. Has not been previously adjudicated a delinquent.

If the child is alleged to have committed or attempted to commit a delinquent offense that if committed by an adult would be a felony, the deferral shall be upon agreement of the district attorney.

B. During such period of deferral, the court may require the following:

1. Participation in or referral to counseling, a period of community service, drug or alcohol education or treatment, vocational training or any other legal activity which would be beneficial to the child and the family of the child;

2. Require the child to undergo a behavioral health evaluation and, if warranted by the mental condition of the child, undergo appropriate care or treatment;

3. Restitution providing for monetary payment by the parents or child, or both, to the victim who was physically injured or who suffered loss of or damage to property as a result of the conduct alleged;

4. An alternative diversion program; or

5. Any other programs and services that may be provided through public or private agencies and as approved by the court.

C. The court shall dismiss the case with prejudice at the conclusion of the deferral period if the child presents satisfactory evidence that the requirements of the court have been successfully completed. The court may order a one-hundred-eighty-day extension of the deferral period if the court determines that the child has made satisfactory progress and that such extension is necessary to accomplish treatment goals and objectives.

D. As used in this section, "alternative diversion program" means a program for juveniles who have been identified by law enforcement personnel, the district attorney, or the court as having committed acts which are not serious enough to warrant adjudication

through the juvenile court process, but which do indicate a need for intervention to prevent further development toward juvenile delinquency. The program shall be administered, pursuant to contract with the Office of Juvenile Affairs, by organizations designated as youth services agencies by law.

Added by Laws 1995, c. 352, § 129, eff. July 1, 1995. Amended by Laws 1998, c. 268, § 8, eff. July 1, 1998; Laws 1999, c. 1, § 6, emerg. eff. Feb. 24, 1999; Laws 2002, c. 473, § 4, eff. Nov. 1, 2002; Laws 2005, c. 226, § 1, eff. Nov. 1, 2005; Laws 2006, c. 124, § 8, eff. Nov. 1, 2006; Laws 2009, c. 234, § 50, emerg. eff. May 21, 2009. Renumbered from § 7303-4.6 of Title 10 by Laws 2009, c. 234, § 180, emerg. eff. May 21, 2009. Amended by Laws 2013, c. 404, § 11, eff. Nov. 1, 2013; Laws 2018, c. 108, § 1, eff. Nov. 1, 2018.

NOTE: Laws 1998, c. 244, § 2 repealed by Laws 1999, c. 1, § 45, emerg. eff. Feb. 24, 1999.

§10A-2-2-501. Dispositional hearings.

A. No later than forty (40) days after making an order of adjudication, the court shall hold a dispositional hearing, at which all evidence helpful in determining the proper disposition best serving the interest of the child and the public, including but not limited to oral and written reports, may be admitted and may be relied upon to the extent of its probative value, even though not competent for the purposes of the adjudicatory hearing.

B. Before making an order of disposition, the court shall advise the district attorney, the attorney of the child, the parents, guardian, custodian or responsible relative, and their counsel, of the factual contents and the conclusion of reports prepared for the use of the court and considered by it, and afford fair opportunity, if requested, to controvert them. An order of disposition shall include a specific finding and order of the court relative to the liability and accountability of the parents for the care and maintenance of the child as authorized by Section 2-2-703 of this title, unless custody is placed with the parent or parents of the child.

C. On its own motion or that of the district attorney, the attorney of the child or of the parent, guardian, custodian, responsible relative or counsel, the court may adjourn the hearing for a reasonable period to receive reports or other evidence and, in such event, shall make an appropriate order for detention of the child, or release of the child from detention subject to supervision by the court, during the period of the continuance.

D. In scheduling investigations and hearings, the court shall give priority to proceedings in which a child is in detention, or has otherwise been removed from his or her home, before an order of disposition has been made.

Added by Laws 1995, c. 352, § 130, eff. July 1, 1995. Amended by Laws 2009, c. 234, § 51, emerg. eff. May 21, 2009. Renumbered from § 7303-5.1 of Title 10 by Laws 2009, c. 234, § 181, emerg. eff. May 21, 2009. Amended by Laws 2013, c. 404, § 12, eff. Nov. 1, 2013; Laws 2014, c. 362, § 1, emerg. eff. May 28, 2014; Laws 2018, c. 155, § 2, eff. Nov. 1, 2018.

§10A-2-2-502. Recommendation for disposition - Probation - Risk and needs assessment tools.

A. Within thirty (30) days after adjudication, the person, department or agency responsible for the supervision of the case shall provide a recommendation, based upon the comprehensive assessment and evaluation process, for disposition to the court and counsel. The recommendation shall include, but not be limited to, the child's eligibility for probation, placement in community residential treatment, or commitment with the Office of Juvenile Affairs.

B. If the recommendation is for probation, an individual treatment and service plan shall be provided to the court and counsel for the parties at the same time as the recommendation provided for in subsection A of this section. If the recommendation is for custody with the Office of Juvenile Affairs or is court-ordered placement in other residential treatment, the individual treatment and service plan shall be provided to the court and counsel for the parties within thirty (30) days after disposition. The plan shall be prepared by the person, department or agency responsible for the supervision of the case or by the legal custodian if the child has been removed from the custody of his or her lawful parent or parents. The treatment and service plan shall be based on a comprehensive assessment and evaluation of the child and family that identifies the priority needs of the child for rehabilitation and treatment and identifies any needs of the parent or legal guardian of the child for services that would improve their ability to provide adequate support, guidance, and supervision of the child. This process should take into account the detention risk assessment decision, the intake preliminary assessment, any comprehensive assessment for substance abuse treatment services, behavioral health services, intellectual disabilities, literary services, and other educational and treatment services as components. The completed assessment process shall result in an individual treatment and service plan which shall include, but not be limited to:

1. A history of the child and family, including identification of the problems leading to the adjudication;

2. The eligibility of the child for disposition of probation, placement in community residential treatment, commitment with the Office of Juvenile Affairs and, if appropriate, assignment of a residential commitment level;

3. Identification of the specific services available to the child to remediate or alleviate the conditions that led to the adjudication, including but not limited to educational, vocational-educational, medical, drug or alcohol abuse treatment or counseling or other treatment services;

4. Identification of the services to be provided to the parent, legal guardian, legal custodian, stepparent, other adult person living in the home or other family members, to remediate or alleviate the conditions that led to the adjudication, including services needed to assist the family to provide proper care and supervision of the child;

5. Performance criteria that will measure the progress of the child and family toward completion of the treatment and service plan;

6. A projected date for the completion of the treatment and service plan; and

7. The name and business address of the attorney representing the child, if any.

C. The Office of Juvenile Affairs shall identify the appropriate risk and needs assessment instruments used to develop the recommendations of the individualized treatment and service plan. The juvenile probation counselor shall be responsible for making informed decisions and recommendations to other agencies, the district attorney, and the courts so that the child and family of the child may receive the least restrictive service alternative throughout the court process.

D. The individual treatment and service plan shall be amended as necessary and appropriate to reflect the disposition of the court. The amended plan shall be filed with the court within thirty (30) days of the order of disposition removing the child from the home and shall state:

1. The reasons for such placement and a statement as to the unavailability or inappropriateness of local placement, or other good cause, for any placement more than fifty (50) miles from the home of the child;

2. The services to be provided to the child while in such placement and the projected date of discharge;

3. The services necessary to assist the child to reintegrate with the family of the child or other community-based placement; and

4. If the child is age sixteen (16) or older, the services necessary to make the transition from community placement to independent living.

E. Whenever a child who is subject to the provisions of this section is committed for inpatient mental health or substance abuse treatment pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Minors Act, the individual treatment and service plan shall be amended as necessary and appropriate, including but not limited to identification of the treatment and services to be

provided to the child and his family upon discharge of the child from inpatient mental health or substance abuse treatment.

Added by Laws 1995, c. 352, § 131, eff. July 1, 1995. Amended by Laws 1998, c. 268, § 9, eff. July 1, 1998; Laws 2002, c. 327, § 27, eff. July 1, 2002; Laws 2009, c. 234, § 52, emerg. eff. May 21, 2009. Renumbered from § 7303-5.2 of Title 10 by Laws 2009, c. 234, § 181, emerg. eff. May 21, 2009. Amended by Laws 2013, c. 404, § 13, eff. Nov. 1, 2013.

§10A-2-2-503. Disposition orders - Revocation, modification and redispotion

A. The following kinds of orders of disposition may be made in respect to children adjudicated in need of supervision or delinquent:

1. The court may place the child on probation with or without supervision in the home of the child, or in the custody of a suitable person, upon such conditions as the court shall determine. If the child is placed on probation, the court may impose a probation fee of not more than Twenty-five Dollars (\$25.00) per month, if the court finds that the child or parent or legal guardian of the child has the ability to pay the fee. In counties having a juvenile bureau, the fee shall be paid to the juvenile bureau; in all other counties, the fee shall be paid to the Office of Juvenile Affairs;

2. If it is consistent with the welfare of the child, the child shall be placed with the parent or legal guardian of the child, but if it appears to the court that the conduct of such parent, guardian, legal guardian, stepparent or other adult person living in the home has contributed to the child becoming delinquent or in need of supervision, the court may issue a written order specifying conduct to be followed by such parent, guardian, legal custodian, stepparent or other adult person living in the home with respect to such child. The conduct specified shall be such as would reasonably prevent the child from continuing to be delinquent or in need of supervision.

a. If it is consistent with the welfare of the child, in cases where the child has been adjudicated to be in need of supervision due to repeated absence from school, the court may order counseling and treatment for the child and the parents of the child to be provided by the local school district, the county, the Office or a private individual or entity. Prior to final disposition, the court shall require that it be shown by the appropriate school district that a child found to be truant has been evaluated for learning disabilities, hearing and visual impairments and other impediments which could constitute an educational handicap or has been evaluated to determine whether the child has a disability if it is suspected that the child may require special education services in

accordance with the Individuals with Disabilities Education Act (IDEA). The results of such tests shall be made available to the court for use by the court in determining the disposition of the case.

- b. In issuing orders to a parent, guardian, legal guardian, stepparent or other adult person living in the home of a child adjudicated to be a delinquent child or in making other disposition of said delinquent child, the court may consider the testimony of said parent, guardian, legal guardian, stepparent or other adult person concerning the behavior of the juvenile and the ability of such person to exercise parental control over the behavior of the juvenile.
- c. In any dispositional order involving a child age sixteen (16) or older, the court shall make a determination, where appropriate, of the services needed to assist the child to make the transition to independent living.
- d. No child who has been adjudicated in need of supervision only upon the basis of truancy or noncompliance with the mandatory school attendance law shall be placed in a public or private institutional facility or be removed from the custody of the lawful parent, guardian or custodian of the child.
- e. Nothing in the Oklahoma Juvenile Code or the Oklahoma Children's Code may be construed to prevent a child from being adjudicated both deprived and delinquent if there exists a factual basis for such a finding;

3. The court may commit the child to the custody of a private institution or agency, including any institution established and operated by the county, authorized to care for children or to place them in family homes. In committing a child to a private institution or agency, the court shall select one that is licensed by any state department supervising or licensing private institutions and agencies; or, if such institution or agency is in another state, by the analogous department of that state. Whenever the court shall commit a child to any institution or agency, it shall transmit with the order of commitment a summary of its information concerning the child, and such institution or agency shall give to the court such information concerning the child as the court may at any time require;

4. The court may order the child to receive counseling or other community-based services as necessary;

5. The court may commit the child to the custody of the Office of Juvenile Affairs. Any order adjudicating the child to be delinquent and committing the child to the Office of Juvenile Affairs shall be for an indeterminate period of time;

6. If the child has been placed outside the home, and it appears to the court that the parent, guardian, legal custodian, or stepparent, or other adult person living in the home has contributed to the child becoming delinquent or in need of supervision, the court may order that the parent, guardian, legal custodian, stepparent, or other adult living in the home be made subject to any treatment or placement plan prescribed by the Office or other person or agency receiving custody of the child;

7. With respect to a child adjudicated a delinquent child, the court may:

- a. for acts involving criminally injurious conduct as defined in Section 142.3 of Title 21 of the Oklahoma Statutes, order the child to pay a victim compensation assessment in an amount not to exceed that amount specified in Section 142.18 of Title 21 of the Oklahoma Statutes. The court shall forward a copy of the adjudication order to the Crime Victims Compensation Board for purposes of Section 142.11 of Title 21 of the Oklahoma Statutes. Except as otherwise provided by law, such adjudication order shall be kept confidential by the Board,
- b. order the child to engage in a term of community service without compensation. The state or any political subdivision shall not be liable if a loss or claim results from any acts or omission of a child ordered to engage in a term of community service pursuant to the provisions of this paragraph,
- c. order the child, the parent or parents of the child, legal guardian of the child, or both the child and the parent or parents of the child or legal guardian at the time of the delinquent act of the child to make full or partial restitution to the victim of the offense which resulted in property damage or personal injury.
  - (1) The court shall notify the victim of the dispositional hearing. The court may consider a verified statement from the victim concerning damages for injury or loss of property and actual expenses of medical treatment for personal injury, excluding pain and suffering. If contested, a restitution hearing to determine the liability of the child, the parent or parents of the child, or legal guardian shall be held not later than thirty (30) days after the disposition hearing and may be extended by the court for good cause. The parent or parents of the child or legal guardian may be represented by an attorney in the matter of the order for remittance of the restitution by the

parent or parents of the child or legal guardian. The burden of proving that the amount indicated on the verified statement is not fair and reasonable shall be on the person challenging the fairness and reasonableness of the amount.

- (2) Restitution may consist of monetary reimbursement for the damage or injury in the form of a lump sum or installment payments after the consideration of the court of the nature of the offense, the age, physical and mental condition of the child, the earning capacity of the child, the parent or parents of the child, or legal guardian, or the ability to pay, as the case may be. The payments shall be made to such official designated by the court for distribution to the victim. The court may also consider any other hardship on the child, the parent or parents of the child, or legal guardian and, if consistent with the welfare of the child, require community service in lieu of restitution or require both community service and full or partial restitution for the acts of delinquency by the child.
- (3) A child who is required to pay restitution and who is not in willful default of the payment of restitution may at any time request the court to modify the method of payment. If the court determines that payment under the order will impose a manifest hardship on the child, the parent or parents of the child, or legal guardian, the court may modify the method of payment.
- (4) If the restitution is not being paid as ordered, the official designated by the court to collect and disburse the restitution ordered shall file a written report of the violation with the court. The report shall include a statement of the amount of the arrearage and any reasons for the arrearage that are known by the official. A copy of the report shall be provided to all parties and the court shall promptly take any action necessary to compel compliance.
- (5) Upon the juvenile attaining eighteen (18) years of age, the court shall determine whether the restitution order has been satisfied. If the restitution order has not been satisfied, the court shall enter a judgment of restitution in favor of each person entitled to restitution for the unpaid balance of any restitution ordered

pursuant to this subparagraph. The clerk of the court shall send a copy of the judgment of restitution to each person who is entitled to restitution. The judgment shall be a lien against all property of the individual or individuals ordered to pay restitution and may be enforced by the victim or any other person or entity named in the judgment to receive restitution in the same manner as enforcing monetary judgments. The restitution judgment does not expire until paid in full and is deemed to be a criminal penalty for the purposes of a federal bankruptcy involving the child,

- d. order the child to pay the fine which would have been imposed had such child been convicted of such crime as an adult. Any such fine collected pursuant to this paragraph shall be deposited in a special Work Restitution Fund to be established by the court to allow children otherwise unable to pay restitution to work in community service projects in the private or public sector to earn money to compensate their victims,
- e. order the cancellation or denial of driving privileges as provided by Sections 6-107.1 and 6-107.2 of Title 47 of the Oklahoma Statutes,
- f. sanction detention in the residence of the child or facility designated by the Office of Juvenile Affairs or the juvenile bureau for such purpose for up to five (5) days, order weekend detention in a place other than a juvenile detention facility or shelter, tracking, or house arrest with electronic monitoring, and
- g. impose consequences, including detention as provided for in subparagraph f of this paragraph, for postadjudicatory violations of probation;

8. The court may order the child to participate in the Juvenile Drug Court Program;

9. The court may dismiss the petition or otherwise terminate its jurisdiction at any time for good cause shown; and

10. In any dispositional order removing a child from the home of the child, the court shall, in addition to the findings required by Section 2-2-105 of this title, make a determination that, in accordance with the best interests of the child and the protection of the public, reasonable efforts have been made to provide for the return of the child to the home of the child, or that efforts to reunite the family are not required as provided in Section 2-2-105 of this title, and reasonable efforts are being made to finalize an alternate permanent placement for the child.

B. Prior to adjudication or as directed by a law enforcement subpoena or court order, a school district may disclose educational records to the court or juvenile justice system for purposes of determining the ability of the juvenile justice system to effectively serve a child. Any disclosure of educational records shall be in accordance with the requirements of the Family Educational Rights and Privacy Act of 1974 (FERPA). If the parent, guardian, or custodian of a child adjudicated a delinquent child asserts that the child has approval not to attend school pursuant to Section 10-105 of Title 70 of the Oklahoma Statutes, the court or the Office of Juvenile Affairs may require the parent to provide a copy of the written, joint agreement to that effect between the school administrator of the school district where the child attends school and the parent, guardian, or custodian of the child.

C. With respect to a child adjudicated a delinquent child for a violent offense, within thirty (30) days of the date of the adjudication either the juvenile bureau in counties which have a juvenile bureau or the Office of Juvenile Affairs in all other counties shall notify the superintendent of the school district in which the child is enrolled or intends to enroll of the delinquency adjudication and the offense for which the child was adjudicated.

D. No child who has been adjudicated in need of supervision may be placed in a secure facility.

E. No child charged in a state or municipal court with a violation of state or municipal traffic laws or ordinances, or convicted therefor, may be incarcerated in jail for the violation unless the charge for which the arrest was made would constitute a felony if the child were an adult. Nothing contained in this subsection shall prohibit the detention of a juvenile for traffic-related offenses prior to the filing of a petition in the district court alleging delinquency as a result of the acts and nothing contained in this section shall prohibit detaining a juvenile pursuant to Section 2-2-102 of this title.

F. The court may revoke or modify a disposition order and may order redispotion. The child whose disposition is being considered for revocation or modification at said hearing shall be afforded the following rights:

1. Notice by the filing of a motion for redispotion by the district attorney. The motion shall be served on the child and the parent or legal guardian of the child at least five (5) business days prior to the hearing;

2. The proceedings shall be heard without a jury and shall require establishment of the facts alleged by a preponderance of the evidence;

3. During the proceeding, the child shall have the right to be represented by counsel, to present evidence, and to confront any witness testifying against the child;

4. Any modification, revocation or redispotion removing the child from the physical custody of a parent or guardian shall be subject to review on appeal, as in other appeals of delinquent cases;

5. If the child is placed in secure detention, bail may be allowed pending appeal; and

6. The court shall not enter an order removing the child from the custody of a parent or legal guardian pursuant to this section unless the court first finds that reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the child from the home of the child or that an emergency exists which threatens the safety of the child and that:

- a. such removal is necessary to protect the public,
- b. the child is likely to sustain harm if not immediately removed from the home,
- c. allowing the child to remain in the home is contrary to the welfare of the child, or
- d. immediate placement of the child is in the best interests of the child.

The court shall state in the record that such considerations have been made. Nothing in this section shall be interpreted to limit the authority or discretion of the agency providing probation supervision services to modify the terms of probation including, but not limited to, curfews, imposing community service, or any nondetention consequences.

G. A willful violation of any provision of an order of the court issued under the provisions of the Oklahoma Juvenile Code shall constitute indirect contempt of court and shall be punishable by a fine not to exceed Three Hundred Dollars (\$300.00) or, as to a delinquent child, placement in a juvenile detention center for not more than ten (10) days, or by both such fine and detention.

Added by Laws 1995, c. 352, § 132, eff. July 1, 1995. Amended by Laws 1997, c. 350, § 6, eff. July 1, 1997; Laws 1998, c. 5, § 8, emerg. eff. March 4, 1998; Laws 1999, c. 406, § 1, eff. July 1, 1999; Laws 2000, c. 373, § 1, eff. July 1, 2000; Laws 2002, c. 473, § 5, eff. Nov. 1, 2002; Laws 2006, c. 124, § 9, eff. Nov. 1, 2006; Laws 2009, c. 234, § 53, emerg. eff. May 21, 2009. Renumbered from § 7303-5.3 of Title 10 by Laws 2009, c. 234, § 181, emerg. eff. May 21, 2009. Amended by Laws 2013, c. 404, § 14, eff. Nov. 1, 2013; Laws 2016, c. 234, § 1, eff. Nov. 1, 2016.

NOTE: Laws 1997, c. 293, § 18 repealed by Laws 1998, c. 5, § 29, emerg. eff. March 4, 1998.

§10A-2-2-504. Periodic review of disposition orders.

A. 1. Every disposition order regarding a child adjudicated to be delinquent or in need of supervision shall be reviewed by the court at least once every six (6) months until such time as the conditions which caused the child to be adjudicated have been

corrected or the parental rights of the parent or parents are terminated pursuant to the Oklahoma Children's Code.

2. A dispositional order removing a child from the custody of the parents of the child shall be reviewed at a hearing by the court at least once every six (6) months until such time as the child is returned to the custody of the parents of the child. No later than twelve (12) months after placing a child in out-of-home care and every twelve (12) months thereafter, the court making the original order of adjudication shall conduct a permanency hearing to determine whether or not reasonable efforts have been made to finalize one of the following permanent placement plans:

- a. the child should be returned to the parents of the child or other family member,
- b. the child should be continued in out-of-home care for a specified period,
- c. the rights of the parents of the child should be terminated and the child placed for adoption or legal guardianship pursuant to the Oklahoma Children's Code, or
- d. the child, because of exceptional circumstances, should remain in out-of-home care on a long-term basis as a permanent plan or with a goal of independent living.

3. The provisions of this section also shall apply to a child who has been removed from the home of the lawful parent or parents of the child after the child has been returned to that home until such time as the court orders the case closed.

4. If authorized by the court, review hearings held pursuant to this section may be conducted via teleconference communication; provided, the attorney representing the child shall be present at the hearing. For purposes of this paragraph, "teleconference communication" means participation by the child and facility staff in the hearing by interactive telecommunication among the necessary participants, the court and the child. The permanency hearing provided for in this section shall not be conducted via teleconference communication.

B. 1. The agency having supervision of the case or, if the child has been removed from the custody of its parents, the legal custodian of such child shall cause to be prepared for each review hearing required herein a written report concerning each child who is the subject of such review.

2. The report shall include, but not be limited to, a summary of the physical, mental, and emotional condition of the child, the conditions existing in the home or institution where the child has been placed, and the adjustment of the child thereto, a report on the progress of the child in school and, if the child has been placed outside the home of the child, the visitation exercised by the parents of such child or other persons authorized by the court, and

services being provided to a child sixteen (16) years of age or older to assist in the transition from out-of-home care or other community placement to independent living.

3. If the Office of Juvenile Affairs is the legal custodian of the child, the report also shall include any efforts on the part of the parent or parents to correct the conditions which caused the child to be adjudicated. The report shall specifically recommend, giving reasons therefor, whether or not the parental rights of the parent or parents of the child should be terminated and the child placed for adoption, whether or not the child should remain in the home or if placed outside the home of the lawful parents of the child, whether or not the child should remain outside the home or be returned to the home from which the child was removed.

C. At each such review hearing, the court shall specifically inquire as to the nature and extent of services being provided the child and parent or parents of the child and shall direct additional services be provided if necessary to protect the child from further physical, mental, or emotional harm or to correct the conditions that led to the adjudication.

In any review order, the court shall further make a determination:

1. As to whether reasonable efforts have been made to provide for the return of the child to the home of the child. If reasonable efforts have failed or are not feasible, the court shall make a finding that the efforts to reunite the family have failed, or are not feasible, and reasonable efforts are being made to secure an alternate permanent placement for the child; and

2. Where appropriate, when the child is age sixteen (16) or older, that services are being provided that will assist the child in making the transition from out-of-home care to independent living.

D. The attorney representing a child whose case is being reviewed may submit a report to the court for presentation at the review hearing to assist the court in reviewing the placement or status of the child. The legal custodian shall not deny to a child the right of access to counsel and shall facilitate such access.

E. The Office of Juvenile Affairs shall notify the court having jurisdiction, the appropriate review board and the appropriate district attorney whenever the placement of a child in the custody of the Office is changed and shall inform said court and attorney regarding the location of the child unless placement modification results from an emergency situation, in which case the notification required by this subsection shall be within one (1) business day after the change of placement. As used in this subsection, "emergency situation" means a placement change requested by a person having actual custody of a child, if the request is made at a time when the business offices of the parties to be notified are closed, or a placement for emergency medical treatment.

F. The Office of Juvenile Affairs shall provide the foster parent of a child and any preadoptive parent or relative providing care for the child with timely notice of and an opportunity to be heard in six-month review hearings and twelve-month permanency hearings held with respect to the child during the time the child is in foster care of such foster parent, preadoptive parent or relative caregiver. Notice of hearings and an opportunity to be heard does not include the right to standing as a party to the case. Added by Laws 1995, c. 352, § 133, eff. July 1, 1995. Amended by Laws 1999, c. 365, § 7, eff. Nov. 1, 1999; Laws 2002, c. 473, § 6, eff. Nov. 1, 2002; Laws 2009, c. 234, § 54, emerg. eff. May 21, 2009. Renumbered from § 7303-5.4 of Title 10 by Laws 2009, c. 234, § 181, emerg. eff. May 21, 2009.

§10A-2-2-505. Juvenile drug court program.

A. The court is hereby authorized to establish a juvenile drug court for the purpose of treating adjudicated juveniles who have a substance abuse disorder. The Department of Mental Health and Substance Abuse Services shall assist in the establishment of juvenile drug courts.

B. At the disposition hearing to set disposition of a case, the court may determine whether there are any statutory preclusions, other prohibitions, or program limitations that exist and are applicable to considering the juvenile for participation in the drug court program.

C. A juvenile drug court investigation shall be ordered by the court, upon the motion of the district attorney, the juvenile, or the judge, once the requirements of subsection B of this section are met. The court shall set a date for a hearing to determine final eligibility for admittance into the program.

D. Upon denial for consideration in the juvenile drug court program at the initial hearing, the case shall proceed as authorized by the Juvenile Code.

Added by Laws 1998, c. 33, § 1, emerg. eff. April 1, 1998. Amended by Laws 2005, c. 226, § 2, eff. Nov. 1, 2005; Laws 2009, c. 234, § 55, emerg. eff. May 21, 2009. Renumbered from § 7303-5.5 of Title 10 by Laws 2009, c. 234, § 181, emerg. eff. May 21, 2009.

§10A-2-2-506. Juvenile drug court investigation - Report - Eligibility.

A. When directed by the court, the treatment staff for the juvenile drug court program shall make an investigation of the juvenile under consideration to determine whether the juvenile is a person who:

1. Would benefit from the juvenile drug court program; and
2. Committed a delinquent act wherein the underlying act or cause of the underlying act involved alcohol or substance abuse.

B. 1. The juvenile drug court investigation shall be conducted through a standardized screening test, personal interview, and home study. A more comprehensive assessment may take place at the time the juvenile enters the treatment portion of the program and may take place at any time after placement in the juvenile drug court program.

2. The investigation shall determine the original treatment plan which the juvenile will be required to follow if admitted to the program. Any subsequent assessments or evaluations by the treatment provider, if the juvenile is admitted to the program, may be used to determine modifications needed to the original treatment plan.

3. The investigation shall include, but not be limited to, the following information:

- a. the age and physical condition of the juvenile,
- b. employment,
- c. educational background and literacy level,
- d. community and family relations,
- e. prior and current drug and alcohol use,
- f. behavioral health and medical treatment history,
- g. demonstrable motivation of the juvenile and family of the juvenile,
- h. the willingness of the person responsible for the health or welfare of the juvenile, as defined in Section 2-1-103 of this title, to actively support the participation of the juvenile in the program, and
- i. other mitigating or aggravating factors.

4. A written treatment plan, which is subject to modification at any time during the program, shall include, but is not limited to:

- a. describing the strong linkage between participating agencies,
- b. access by all participating parties of a case to information on the progress of the juvenile,
- c. vigilant supervision and monitoring procedures,
- d. random substance abuse testing,
- e. provisions for noncompliance, modification of the treatment plan and revocation proceedings,
- f. availability of residential treatment facilities and outpatient services,
- g. reparation to the victim, community and state, and
- h. methods for measuring application of disciplinary sanctions, including provisions for:
  - (1) increased supervision,
  - (2) urinalysis testing,
  - (3) intensive treatment,
  - (4) short-term confinement not to exceed five (5) days,

- (5) reinstating the juvenile into the program after a disciplinary action for a violation of the treatment plan, and
- (6) revocation from the program.

C. 1. When a juvenile is determined to be appropriate for admittance to the program, regardless of whether the juvenile is in the custody of the Office of Juvenile Affairs, the treatment staff shall make a recommendation for the treatment program or programs that are available in the jurisdiction and which would benefit the juvenile and accept the juvenile.

2. Prior to the next scheduled hearing, the investigation findings and recommendations for program placement shall be reported to the court, the district attorney, the juvenile and the person responsible for the health or welfare of the juvenile, as defined in Section 2-1-103 of this title, and the attorney of the juvenile.

D. The hearing to determine final eligibility shall be set not less than three (3) judicial days nor more than seven (7) judicial days from the date of the initial hearing for consideration, unless extended by the court.

E. 1. Any statement made by the juvenile to any supervising staff during the course of any drug court investigation or subsequent to the admission of the juvenile to the juvenile drug court program, as well as any report of findings and recommendations, shall not be admissible in any case pending against the juvenile, nor shall such be grounds for the revocation of a juvenile from the program.

2. The restrictions provided in this section shall not preclude the admissibility of statements or evidence obtained by the state from independent sources.

Added by Laws 2005, c. 226, § 3, eff. Nov. 1, 2005. Amended by Laws 2009, c. 234, § 56, emerg. eff. May 21, 2009. Renumbered from § 7303-5.6 of Title 10 by Laws 2009, c. 234, § 181, emerg. eff. May 21, 2009.

§10A-2-2-507. Juvenile drug court program - Final eligibility hearing - Admittance into program.

A. The juvenile drug court judge shall conduct a hearing to determine final eligibility of the juvenile for the juvenile drug court program by considering:

1. Whether the juvenile is appropriate for placement in drug court, as provided in subsection A of Section 2-2-506 of this title;
2. The findings and recommendations of the juvenile drug court investigation;
3. Whether there is an appropriate treatment program available to the juvenile and whether there is a recommended treatment plan; and
4. Any information relevant to determining eligibility. A juvenile shall not be denied admittance to any juvenile drug court

program based upon the inability of the juvenile and the person responsible for the health or welfare of the juvenile, as defined in Section 2-1-103 of this title, to pay court costs or other costs or fees.

B. The judge shall require the person responsible for the health or welfare of the juvenile, as defined in Section 2-1-103 of this title, to demonstrate support for the participation of the juvenile in the program. In order for the juvenile to be admitted to the program, every person responsible for the health or welfare of the juvenile shall accept the personal jurisdiction of the court. Any adult who establishes a permanent residence in the home where the juvenile resides after the juvenile has been admitted to the program shall also accept the personal jurisdiction of the court. Failure of the adult responsible for the health or welfare of the juvenile or the adult who resides in the home with the juvenile to accept personal jurisdiction of the court shall result in either contempt of court proceedings for the adult, removal of the juvenile from the home, or both. A juvenile shall not be removed from the drug court program based solely on the failure of the adult to comply with the provisions of this subsection.

C. When the court accepts the treatment plan, the juvenile and the person responsible for the health or welfare of the juvenile, as defined in Section 2-1-103 of this title, must have voluntarily signed the necessary court documents before the juvenile may be admitted to treatment. The court documents shall include:

1. A written treatment plan which is subject to modification at any time during the program, as set forth in paragraph 4 of subsection B of Section 2-2-506 of this title;

2. A statement requiring the juvenile to enter the treatment program as directed by the court and to participate until completion, withdrawal, or removal by the court; and

3. A statement signed voluntarily by the person or persons responsible for the health or welfare of the juvenile that such person will comply with the orders of the court and any conditions of the treatment program and supervising staff for as long as the juvenile participates in the juvenile drug court program.

D. If admission into the juvenile drug court program is denied, the case shall be returned to the traditional juvenile docket and shall proceed as provided for any other juvenile case.

E. At the time a juvenile is admitted to the juvenile drug court program, any bond, bail or undertaking on behalf of the juvenile shall be exonerated.

F. 1. A juvenile shall actively participate in treatment for a period of not less than six (6) months while participating in the juvenile drug court program. Any person admitted to a juvenile drug court program who becomes eighteen (18) years of age shall be eligible to complete the drug court program.

2. All participating treatment providers shall be certified by the Department of Mental Health and Substance Abuse Services and shall be selected and evaluated for performance-based effectiveness annually by the Department of Mental Health and Substance Abuse Services. Treatment programs shall be designed to be completed within twelve (12) months and shall have relapse prevention and evaluation components.

Added by Laws 2005, c. 226, § 5, eff. Nov. 1, 2005. Amended by Laws 2009, c. 234, § 57, emerg. eff. May 21, 2009. Renumbered from § 7303-5.8 of Title 10 by Laws 2009, c. 234, § 181, emerg. eff. May 21, 2009.

§10A-2-2-508. Juvenile drug court program - Periodic review, progress reports and hearings.

A. The court shall make all judicial decisions concerning any case assigned to the juvenile drug court docket or program. The court shall require progress reports and a periodic review of each juvenile during their period of participation in the drug court program or for purposes of collecting costs and fees after completion of the treatment portion of the program. Reports from the treatment providers and the supervising staff shall be presented to the court as specified by the treatment plan or as ordered by the court.

B. The court may establish a regular schedule for progress hearings for any juvenile in the drug court program. The district attorney shall not be required to attend regular progress hearings, but shall be required to be present upon the motion of any party to a drug court case.

C. The treatment provider, the supervising staff, the district attorney, and the attorney for the juvenile shall be allowed access to all information in the drug court case file of the juvenile and all information presented to the court at any periodic review or progress hearing.

D. 1. The court shall recognize relapses and restarts in the program which are considered to be part of the rehabilitation and recovery process.

2. The court shall order progressively increasing sanctions or provide incentives, rather than removing the juvenile from the program when relapse occurs, except when the conduct of the juvenile requires removal from the program.

3. Any removal from the drug court program shall require notice to the juvenile and the person responsible for the health or welfare of the juvenile, as defined in Section 2-1-103 of this title, and other participating parties in the case and a hearing.

4. At the hearing, if the juvenile is found to have violated the conditions of the treatment plan and disciplinary sanctions have been insufficient to gain compliance, the juvenile shall be removed from

the program, returned to the regular juvenile court docket and set for redispotion.

E. Upon application of any participating party to a drug court case, the court may modify a treatment plan at any hearing when it is determined that the treatment is not beneficial to the juvenile. The primary objective of the court in monitoring the progress of the juvenile and the treatment plan shall be to keep the juvenile in treatment for a sufficient time to change behaviors and attitudes. Modification of the treatment plan requires a consultation with the treatment provider, supervising staff, district attorney, and the attorney of the juvenile in open court.

F. The court shall be authorized to modify the responsibilities of any person responsible for the health and welfare of the juvenile, as defined in Section 2-1-103 of this title, for noncompliance with any condition established by the court. The court is also authorized to sanction the person responsible for the health and welfare of the juvenile or any adult residing with the juvenile, for noncompliance of such person with any condition established in the court. Added by Laws 2005, c. 226, § 6, eff. Nov. 1, 2005. Amended by Laws 2009, c. 234, § 58, emerg. eff. May 21, 2009. Renumbered from § 7303-5.9 of Title 10 by Laws 2009, c. 234, § 181, emerg. eff. May 21, 2009.

§10A-2-2-509. Payment of juvenile drug court program costs and fees - Juvenile Drug Court Revolving Fund.

A. 1. The court may order the juvenile or the person responsible for the health or welfare of the juvenile, as defined in Section 2-1-103 of this title, to pay court costs, treatment costs, drug-testing costs, and supervision fees. The court shall order the juvenile or the person responsible for the health or welfare of the juvenile to pay a program user fee, not to exceed Twenty Dollars (\$20.00) per month.

2. The court may establish a schedule for the payment of costs and fees.

B. 1. If the court orders the juvenile and the person responsible for the health or welfare of the juvenile to pay the above-enumerated costs, there shall be created with the county treasurer of each county within this state a cash fund to be designated as the "Juvenile Drug Court Revolving Fund".

2. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received and any other monies designated by law for deposit into the fund.

3. All monies accruing to the credit of the fund are hereby appropriated and shall be expended by the juvenile drug court coordinator for the benefit and administration of the juvenile drug court program.

4. Claims against the fund shall include only expenses incurred for the administration of the juvenile drug court program and payment may be made after the claim is approved by the juvenile drug court team.

5. The necessary forms and procedures to account for the monies shall be developed and implemented by the Office of the State Auditor and Inspector.

C. 1. The cost for treatment, drug testing and supervision fees shall be set by the juvenile drug court team and shall reflect actual expenses or rates established by the Department of Mental Health and Substance Abuse Services and made part of the order of the court for payment.

2. The costs for drug testing and supervision fees shall be paid to the juvenile drug court coordinator for deposit into the county Juvenile Drug Court Revolving Fund.

3. The costs for treatment shall be paid to the respective juvenile drug court treatment provider or providers.

4. The court clerk shall collect all other costs and fees ordered.

D. 1. No court order for costs and fees shall be limited by any term of supervision, treatment, or extension thereof.

2. Court orders for costs and fees shall remain an obligation of the juvenile and the person responsible for the health or welfare of the juvenile, as defined in Section 2-1-103 of this title, with court monitoring until fully paid.

Added by Laws 2005, c. 226, § 7, eff. Nov. 1, 2005. Amended by Laws 2009, c. 234, § 59, emerg. eff. May 21, 2009. Renumbered from § 7303-5.10 of Title 10 by Laws 2009, c. 234, § 181, emerg. eff. May 21, 2009.

#### §10A-2-2-601. Appeals.

A. Any interested party aggrieved by any order or decree may appeal to the Court of Criminal Appeals in the same manner as other appeals are taken to the Court of Criminal Appeals of this state.

B. The record on appeal of an order of adjudication or of an order certifying or denying certification of a juvenile to stand trial as an adult shall be completed and the appeal perfected within sixty (60) days after the date of the order.

C. The pendency of an appeal thus taken shall not suspend the order of the district court regarding a child, nor shall it discharge the child from the custody of that court or of the person, institution or agency to whose care such child has been committed, unless the Court of Criminal Appeals shall so order. The pendency of an appeal from an order of adjudication shall not prevent the district court from holding a dispositional hearing unless the appellate court shall so order. The pendency of an appeal from an order certifying a juvenile to stand trial as an adult shall not

prevent the commencement of criminal proceedings against the juvenile unless stayed by the judge who issued the order of certification or by the appellate court. If the Court of Criminal Appeals does not dismiss the proceedings and discharge the child, it shall affirm or modify the order of the district court and remand the child to the jurisdiction of that court for supervision and care; and thereafter the child shall be and remain under the jurisdiction of the district court in the same manner as if such court had made such order without an appeal having been taken.

D. In the opinions of the appellate courts of this state in juvenile proceedings under the Oklahoma Juvenile Code, the initial of the surname of the child shall be used rather than the surname of the child.

Added by Laws 1995, c. 352, § 135, eff. July 1, 1995. Amended by Laws 2009, c. 234, § 60, emerg. eff. May 21, 2009. Renumbered from § 7303-6.2 of Title 10 by Laws 2009, c. 234, § 182, emerg. eff. May 21, 2009.

§10A-2-2-701. Summons - Bench warrants - Obligations of parent, legal guardian, or custodian.

A. When it is determined to be in the best interests of the child, the court may order a parent, legal guardian or custodian of the child, and any other person living in the home of such child who has been properly served with a summons pursuant to Section 2-2-107 of this title to be present at or bring the child to any proceeding under the provisions of the Oklahoma Juvenile Code. The court may issue a bench warrant for any parent, legal guardian or custodian of the child, or any other person living in the home of such child who has been properly served with a summons pursuant to Section 2-2-107 of this title who, without good cause, fails to appear at any proceeding.

B. In any proceeding under the Oklahoma Juvenile Code, the court shall enter an order specifically requiring a parent, legal guardian or custodian of the child, and any other person living in the home of such child who has been properly served with a summons pursuant to Section 2-2-107 of this title to participate in the rehabilitation process of a child including, but not limited to, mandatory attendance at a juvenile proceeding, parenting class, counseling, treatment, or an education program unless the court determines that such an order is not in the best interests of the child.

1. Any parent, legal guardian or custodian of the child, and any other person living in the home of such child who has been properly served with a summons pursuant to Section 2-2-107 of this title willfully failing to comply with an order issued under this section without good cause may be found in indirect contempt of court.

2. The court may issue a bench warrant for any parent, legal guardian or custodian of the child, and any other person living in

the home of such child who has been properly served with a summons pursuant to Section 2-2-107 of this title who, without good cause, fails to appear at any juvenile proceeding or court-ordered program.

3. For purposes of this section, "good cause" shall include, but not be limited to, a situation where a parent, legal guardian or custodian of the child, and any other person living in the home of such child who has been properly served with a summons pursuant to Section 2-2-107 of this title:

- a. has employment obligations that would result in the loss of employment,
- b. does not have physical custody of the child and resides outside the county of residence of the child, and
- c. resides in the county of the residence of the child but is outside that county at the time of the juvenile proceeding or court-ordered program for reasons other than avoiding participation or appearance before the court and participating or appearing in the court will result in undue hardship to the parent or guardian.

4. Nothing in this section shall be construed to create a right for any child to have his or her parent, legal guardian or custodian of the child, and any other person living in the home of such child who has been properly served with a summons pursuant to Section 2-2-107 of this title present at any juvenile proceeding or court-ordered program at which such child is present.

C. A parent, legal guardian or custodian of the child, and any other person living in the home of such child who has been properly served with a summons pursuant to Section 2-2-107 of this title may be ordered by the court to:

1. Report any probation, parole or conditional release violations; or
2. Aid in enforcing terms and conditions of probation, parole or conditional release or other orders of the court.

Any person placed under an order to report any probation, parole or conditional release violations or aid in enforcing terms and conditions of probation, parole or conditional release or other orders of the court and who fails to do as ordered may be found in indirect contempt of court. Punishment for any such act of contempt shall not exceed a fine of Three Hundred Dollars (\$300.00), or imprisonment for not more than thirty (30) days in the county jail if the violator is an adult, or both such fine and imprisonment. The pursuit and prosecution of an indirect contempt of court judgment shall be initiated by the district attorney.

D. As used in this section, "guardian" or "custodian" shall not include any private or public agency having temporary or permanent custody of the child. Provided, nothing in this subsection shall allow the agency to fail to comply with a writ of habeas corpus issued by the court.

Added by Laws 1995, c. 352, § 140, eff. July 1, 1995. Amended by Laws 2009, c. 234, § 61, emerg. eff. May 21, 2009. Renumbered from § 7303-7.4 of Title 10 by Laws 2009, c. 234, § 183, emerg. eff. May 21, 2009. Amended by Laws 2013, c. 404, § 15, eff. Nov. 1, 2013.

§10A-2-2-702. Referees.

A. Any judge who is assigned to hear juvenile cases in counties having a population in excess of eighty thousand (80,000) and where funding is available may appoint a suitable person or persons to act as referee or referees on a full-time or part-time basis, to hold office at the pleasure of the judge. Referees shall be licensed to practice law in this state and shall be specially qualified for their duties. Reasonable compensation shall be fixed by the presiding judge of the administrative district.

B. All referees are subject to the administrative authority and assignment power of the chief judge of the juvenile court of the county. The duties and powers of referees shall be to hear and report all matters assigned by the chief juvenile judge and to recommend findings of fact, conclusions of law, temporary and interim orders, and final orders of judgment.

C. 1. Upon the conclusion of the hearing, the referee shall provide a copy in writing of the recommended findings, conclusions, and orders to the parties, counsel and the referring judge instanter.

2. Unless stayed by order of the referee or the reviewing judge, all orders of a referee shall become immediately effective and shall continue in full force and effect until vacated or modified upon rehearing by order of the reviewing judge. Any order entered by a referee becomes a final order of the reviewing court upon expiration of three (3) judicial days following its entry, unless a review was ordered or requested. The chief judge of the juvenile court may establish requirements that any or all recommended orders of the referee must be expressly approved by the reviewing judge before becoming effective.

D. 1. Any party, as well as the Department of Human Services when the child is in the legal custody of the Department, may file a written objection to the referee's recommendations within three (3) judicial days after notice of the recommendations. The objection shall clearly specify the reason and grounds for the objection. On receipt of the objection, the reviewing court shall set a hearing date for the review. The objecting party shall promptly provide a copy of the objection and notice of the review to the Department and all parties to the action. Failure to file a timely request for district court review shall constitute a waiver of any and all objections to the recommendations of the referee.

2. The review of the district court shall be limited to a review of the record developed before the referee.

3. The court shall accept the findings of fact of the referee unless they are clearly erroneous. After a review of the objection, the court may confirm or reconfirm the recommendations, reject, or modify them in whole or in part, receive further evidence, or remand them with instructions.

Added by Laws 1995, c. 352, § 141, eff. July 1, 1995. Amended by Laws 2009, c. 234, § 62, emerg. eff. May 21, 2009. Renumbered from § 7303-7.5 of Title 10 by Laws 2009, c. 234, § 183, emerg. eff. May 21, 2009. Amended by Laws 2010, c. 278, § 16, eff. Nov. 1, 2010.

§10A-2-2-703. Expenses for care and maintenance of child.

A. If, after notice to the parent or parents of the child or other persons legally obligated to care for and support the child, and after affording said person or persons an opportunity to be heard, the court finds that the parent or parents of the child or other person is able to pay all or part of the costs and expenses set forth in paragraphs 1 through 4 of this subsection, the court may order the person or persons to pay the same and prescribe the method of payment, as follows:

1. Reimburse the court fund, in whole or in part, for any disbursements made from the court fund in conjunction with the case, including, but not limited to, court-appointed attorney fees, expert witness fees, sheriff's fees, witness fees, transcripts and postage;

2. Pay for the care and maintenance of the child, including, but not limited to, all or some part of placement services, medical care, behavioral health services, outcome incentive payments for providers and reasonable monthly expenses, as authorized by law;

3. Reimburse the Office of Juvenile Affairs, in whole or in part, for any costs and expenses incurred by the Office in providing any services or authorized actions taken pursuant to the Oklahoma Juvenile Code for the child; and

4. Reimburse any law enforcement agency, in whole or in part, for any costs or expenses incurred by the law enforcement agency for custodial services or other authorized actions taken pursuant to the Oklahoma Juvenile Code.

The court may also order the assignment of benefits of medical insurance coverage for the child to the Office of Juvenile Affairs for the period of time the child is in the custody of the Office of Juvenile Affairs.

B. The court shall use the child support guidelines provided for in Section 118 of Title 43 of the Oklahoma Statutes in determining the amount a parent is to pay for care and maintenance of a child. If any parent is financially able but has willfully failed to pay any costs or reimbursements as ordered by the court pursuant to this section, the parent may be held in indirect civil contempt of court and, upon conviction, shall be punished pursuant to Section 566 of Title 21 of the Oklahoma Statutes.

C. The court shall have the right, upon conducting an evidentiary hearing, to modify its orders for care and maintenance, as the conditions or needs of the child or children may require and the ability of the person or persons held to pay may afford. The court may order support payments to be made pursuant to Section 413 of Title 43 of the Oklahoma Statutes, to the Department of Human Services Centralized Support Registry.

Added by Laws 1995, c. 352, § 142, eff. July 1, 1995. Amended by Laws 1996, c. 353, § 26, eff. Nov. 1, 1996; Laws 1997, c. 293, § 19, eff. July 1, 1997; Laws 2000, c. 177, § 6, eff. July 1, 2000; Laws

2001, c. 357, § 2, eff. July 1, 2001; Laws 2009, c. 234, § 63, emerg. eff. May 21, 2009. Renumbered from § 7303-7.6 of Title 10 by Laws 2009, c. 234, § 183, emerg. eff. May 21, 2009. Amended by Laws 2017, c. 344, § 1, eff. July 1, 2017.

§10A-2-2-801. Procedures and requirements for placement of adjudicated children.

A. 1. Whenever the court transfers custody of a child as provided in this article, the person, institution, agency, or department receiving custody shall have the right to, and shall be responsible for, the care and control of the child, and shall have the duty and authority to provide food, clothing, shelter, medical care, education, and discipline for the child, and to authorize and consent to medical care for the child provided by a qualified health care professional. The person, institution, agency or department may provide or arrange for the provision of inpatient treatment of such minor only as provided by the Inpatient Mental Health and Substance Abuse Treatment of Minors Act. Nothing in this subsection shall be interpreted to prohibit or preclude the provision of outpatient services, including an outpatient examination, counseling, educational, rehabilitative or other similar services to said minor, as necessary and appropriate, in the absence of a specific court order for such services.

2. The medical care, surgery and extraordinary care shall be charged to the appropriate agency where the child qualifies for the care under law, rule or administrative order or decision.

3. Nothing in this subsection shall be interpreted to:

- a. relieve a parent of the obligation to provide for the support of the child as otherwise provided by law, or
- b. limit the authority of the court to order a parent to make support payments or to make payments or reimbursements for medical care or treatment, including behavioral health care or treatment, to the person, institution, agency or Department having custody of the child, or
- c. abrogate the right of the child to any benefits provided through public funds for which the child is otherwise eligible.

4. No person, agency or institution shall be liable in a civil suit for damages for authorizing or not authorizing surgery or extraordinary care in an emergency, as determined by competent medical authority. No state employee shall be liable for the costs of any medical care or behavioral health services provided to any child in the custody of the Office of Juvenile Affairs.

B. The person, institution, agency, or department having legal custody of a child pursuant to an order of the court shall receive notice of court proceedings regarding the child as provided in

Sections 2-2-107 and 2-2-501 of this title and shall be allowed to intervene upon application as a party to all court proceedings pertaining to the care and custody of the child including, but not limited to: adjudication, disposition, review of disposition, termination of parental rights and proceedings pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Minors Act. Added by Laws 1995, c. 352, § 143, eff. July 1, 1995. Amended by Laws 1997, c. 293, § 20, eff. July 1, 1997; Laws 2000, c. 177, § 7, eff. July 1, 2000; Laws 2002, c. 327, § 28, eff. July 1, 2002; Laws 2009, c. 234, § 64, emerg. eff. May 21, 2009. Renumbered from § 7303-8.1 of Title 10 by Laws 2009, c. 234, § 184, emerg. eff. May 21, 2009.

§10A-2-2-802. Termination of parental rights.

A. The finding that a child is delinquent or in need of supervision shall not deprive the parents of the child of their parental rights, but a court may terminate the rights of a parent to a child for any reason authorized in the Oklahoma Children's Code. The provision of the Oklahoma Children's Code shall govern termination of parental rights.

B. Whenever parental rights of the parents of a child have been terminated and the child is committed to the Office of Juvenile Affairs, the Executive Director of the Office of Juvenile Affairs shall serve as the legal guardian of the estate of the child, until another guardian is legally appointed, for the purpose of preserving the child's property rights, securing for the child any benefits to which he may be entitled under social security programs, insurance, claims against third parties, and otherwise, and receiving and administering such funds or property for the care and education of the child.

Added by Laws 1995, c. 352, § 144, eff. July 1, 1995. Amended by Laws 2000, c. 177, § 8, eff. July 1, 2000; Laws 2009, c. 234, § 65, emerg. eff. May 21, 2009. Renumbered from § 7303-8.2 of Title 10 by Laws 2009, c. 234, § 184, emerg. eff. May 21, 2009.

§10A-2-2-803. Review and assessment of children committed to Office of Juvenile Affairs.

A. The Office of Juvenile Affairs shall review and assess each child committed to the Office to determine the type of placement consistent with the treatment needs of the child in the nearest geographic proximity to the home of the child and, in the case of delinquent children, the protection of the public. Such review and assessment shall include an investigation of the personal and family history of the child, and his environment, and any physical or mental examinations considered necessary.

B. In making such review, the Office may use any facilities, public or private, which offer aid to it in the determination of the correct placement of the child.

Added by Laws 1995, c. 352, § 145, eff. July 1, 1995. Amended by Laws 2009, c. 234, § 66, emerg. eff. May 21, 2009. Renumbered from § 7303-8.3 of Title 10 by Laws 2009, c. 234, § 184, emerg. eff. May 21, 2009.

§10A-2-2-804. Child in need of mental health treatment.

A. The Office of Juvenile Affairs may provide for the care of a child who is in the custody of the Office of Juvenile Affairs and found by a court to be a minor in need of treatment pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Minors Act.

B. In providing for the outpatient behavioral health care and the treatment of children in its custody, the Office of Juvenile Affairs shall utilize to the maximum extent possible and appropriate the services available through:

1. The guidance centers operated by the State Department of Health; and
2. The Department of Mental Health and Substance Abuse Services;
3. The Department of Human Services; and
4. Community-based private agencies and organizations.

Added by Laws 1986, c. 286, § 5, emerg. eff. June 24, 1986. Amended by Laws 1989, c. 345, § 5, eff. Oct. 1, 1989; Laws 1990, c. 238, § 7, emerg. eff. May 21, 1990; Laws 1990, c. 337, § 4; Laws 1991, c. 335, § 3, emerg. eff. June 15, 1991; Laws 1992, c. 298, § 32, eff. July 1, 1993; Laws 1995, c. 352, § 146, eff. July 1, 1995. Renumbered from § 1135.1 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 2002, c. 327, § 29, eff. July 1, 2002; Laws 2009, c. 234, § 67, emerg. eff. May 21, 2009. Renumbered from § 7303-8.4 of Title 10 by Laws 2009, c. 234, § 184, emerg. eff. May 21, 2009.

NOTE: Laws 1990, c. 51, § 7 repealed by Laws 1990, c. 337, § 26. Laws 1990, c. 302, § 11 repealed by Laws 1991, c. 335, § 36, emerg. eff. June 15, 1991.

§10A-2-2-805. Commitment of child to custody of Office of Juvenile Affairs - Delivery to designated institution.

When a child is committed to the custody of the Office of Juvenile Affairs under the provisions of this article, the court shall order the child to be delivered by the sheriff or by a private contractor pursuant to the provisions of Section 2-3-103 of this title to an institution, or other place, designated by the Office, and the cost of transportation shall be paid from the general fund of the county. The Office of Juvenile Affairs shall not be ordered to provide transportation as provided for in this section for a juvenile who has been committed to the custody of the Office and is destined for a secure institution.

Added by Laws 1970, c. 138, § 1, emerg. eff. April 7, 1970. Amended by Laws 1993, c. 320, § 3, emerg. eff. June 7, 1993; Laws 1995, c. 352, § 148, eff. July 1, 1995. Renumbered from § 1143 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 2006, c. 124, § 10, eff. Nov. 1, 2006; Laws 2009, c. 234, § 68, emerg. eff. May 21, 2009. Renumbered from § 7303-8.6 of Title 10 by Laws 2009, c. 234, § 184, emerg. eff. May 21, 2009.

§10A-2-2-806. Repealed by Laws 2013, c. 404, § 30, eff. Nov. 1, 2013.

§10A-2-3-101. Conditions of detention of child - Detention or confinement in adult facility - Access to facilities and data

A. When a child is taken into custody pursuant to the provisions of the Oklahoma Juvenile Code, the child shall be detained only if it is necessary to assure the appearance of the child in court or for the protection of the child or the public.

1. a. No preadjudicatory or predisposition detention or custody order shall remain in force and effect for more than thirty (30) days. The court, for good and sufficient cause shown, may extend the effective period of such an order for an additional period not to exceed sixty (60) days. If the child is being detained for the commission of a murder, the court may, if it is in the best interests of justice, extend the effective period of such an order an additional sixty (60) days.
- b. Whenever the court orders a child to be held in a juvenile detention facility, an order for secure detention shall remain in force and effect for not more than fifteen (15) days after such order. Upon an application of the district attorney and after a hearing on such application, the court, for good and sufficient cause shown, may extend the effective period of such an order for an additional period not to exceed fifteen (15) days after such hearing. The total period of preadjudicatory or predisposition shall not exceed the ninety-day limitation as specified in subparagraph a of this paragraph. The child shall be present at the hearing on the application for extension unless, as authorized and approved by the court, the attorney for the child is present at the hearing and the child is available to participate in the hearing via telephone conference communication. For the purpose of this paragraph, "telephone conference communication" means use of a telephone device that allows all parties, including the child, to hear and be heard by the other parties at the hearing. After the hearing, the court

may order continued detention in a juvenile detention center, may order the child detained in an alternative to secure detention or may order the release of the child from detention.

2. No child alleged or adjudicated to be deprived or in need of supervision or who is or appears to be a minor in need of treatment as defined by the Inpatient Mental Health and Substance Abuse Treatment of Minors Act, shall be confined in any jail, adult lockup, or adult detention facility. No child shall be transported or detained in association with criminal, vicious, or dissolute persons.

3. Except as otherwise authorized by this section a child who has been taken into custody as a deprived child, a child in need of supervision, or who appears to be a minor in need of treatment, may not be placed in any detention facility pending court proceedings, but must be placed in shelter care or foster care or, with regard to a child who appears to be a minor in need of treatment, a behavioral health treatment facility in accordance with the provisions of the Inpatient Mental Health and Substance Abuse Treatment of Minors Act, or released to the custody of the parents of the child or some other responsible party. Provided, this shall not preclude runaway juveniles from other states, with or without delinquent status, to be held in a detention facility in accordance with the Interstate Compact for Juveniles in Sections 2-9-101 through 2-9-116 of this title and rules promulgated by the Interstate Commission.

B. No child shall be placed in secure detention unless:

1. The child is an escapee from any delinquent placement;

2. The child is a fugitive from another jurisdiction with a warrant on a delinquency charge or confirmation of delinquency charges by the home jurisdiction;

3. The child is seriously assaultive or destructive towards others or self;

4. The child is currently charged with any criminal offense that would constitute a felony if committed by an adult or a misdemeanor and:

a. is on probation or parole on a prior delinquent offense,

b. is on preadjudicatory community supervision, or

c. is currently on release status on a prior delinquent offense;

5. The child has willfully failed or there is reason to believe that the child will willfully fail to appear for juvenile court proceedings;

6. A warrant for the child has been issued on the basis that:

a. the child is absent from court-ordered placement without approval by the court,

- b. the child is absent from designated placement by the Office of Juvenile Affairs without approval by the Office of Juvenile Affairs,
- c. there is reason to believe the child will not remain at said placement, or
- d. the child is subject to an administrative transfer or parole revocation proceeding.

C. A child who has violated a court order and has had the order revoked or modified pursuant to Section 2-2-503 of this title may be placed into an Office-of-Juvenile-Affairs-designated sanction detention bed or an Office-of-Juvenile-Affairs-approved sanction program.

D. Priority shall be given to the use of juvenile detention facilities for the detention of juvenile offenders through provisions requiring the removal from detention of a juvenile with a lower priority status if an empty detention bed is not available at the time of referral of a juvenile with a higher priority status and if the juvenile with a higher priority status would be more of a danger to the public than the juvenile with the lower priority status.

E. 1. Except as otherwise provided in this section, no child shall be placed in secure detention in a jail, adult lockup, or other adult detention facility unless:

- a. the child is detained for the commission of a crime that would constitute a felony if committed by an adult, and
- b. the child is awaiting an initial court appearance, and
- c. the initial court appearance of the child is scheduled within twenty-four (24) hours after being taken into custody, excluding weekends and holidays, and
- d. the court of jurisdiction is outside of the Standard Metropolitan Statistical Area as defined by the Bureau of Census, and
- e. there is no existing acceptable alternative placement for the child, and
- f. the jail, adult lockup or adult detention facility provides sight and sound separation for juveniles, pursuant to standards required by subsection E of Section 2-3-103 of this title, or
- g. the jail, adult lockup or adult detention facility meets the requirements for licensure of juvenile detention facilities, as adopted by the Office of Juvenile Affairs, is appropriately licensed, and provides sight and sound separation for juveniles, which includes:
  - (1) total separation between juveniles and adult facility spatial areas such that there could be no

- haphazard or accidental contact between juvenile and adult residents in the respective facilities,
- (2) total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping and general living activities, and
  - (3) separate juvenile and adult staff, specifically direct care staff such as recreation, education and counseling.

Specialized services staff, such as cooks, bookkeepers, and medical professionals who are not normally in contact with detainees or whose infrequent contacts occur under conditions of separation of juveniles and adults can serve both.

2. Nothing in this section shall preclude a child who is detained for the commission of a crime that would constitute a felony if committed by an adult, or a child who is an escapee from a juvenile secure facility or from an Office of Juvenile Affairs group home from being held in any jail certified by the State Department of Health, police station or similar law enforcement offices for up to six (6) hours for purposes of identification, processing or arranging for transfer to a secure detention or alternative to secure detention. Such holding shall be limited to the absolute minimum time necessary to complete these actions.

- a. The time limitations for holding a child in a jail for the purposes of identification, processing or arranging transfer established by this section shall not include the actual travel time required for transporting a child from a jail to a juvenile detention facility or alternative to secure detention.
- b. Whenever the time limitations established by this subsection are exceeded, this circumstance shall not constitute a defense in a subsequent delinquency or criminal proceeding.

3. Nothing in this section shall preclude detaining in a county jail or other adult detention facility an eighteen-year-old charged in a juvenile petition for whom certification to stand trial as an adult is prayed. However, if no certification motion is filed, the eighteen-year-old may remain in a juvenile detention facility as long as secure detention is required.

4. Nothing in this section shall preclude detaining in a county jail or other adult detention facility a person provided for in Section 2-3-102 of this title if written or electronically transmitted confirmation is received from the state seeking return of the individual that the person is a person provided for in Section 2-3-102 of this title and if, during the time of detention, the person

is detained in a facility meeting the requirements of Section 2-3-103 of this title.

5. Nothing in this section shall preclude detaining a person, whose age is not immediately ascertainable and who is being detained for the commission of a felony, in a jail certified by the State Department of Health, a police station or similar law enforcement office for up to twenty-four (24) hours for the purpose of determining whether or not the person is a child, if:

- a. there is a reasonable belief that the person is eighteen (18) years of age or older,
- b. there is a reasonable belief that a felony has been committed by the person,
- c. a court order for such detention is obtained from a judge of the district court within six (6) hours of initially detaining the person,
- d. there is no juvenile detention facility that has space available for the person and that is within thirty (30) miles of the jail, police station, or law enforcement office in which the person is to be detained, and
- e. during the time of detention the person is detained in a facility meeting the requirements of subparagraph g of paragraph 1 of this subsection.

The time limitation provided for in this paragraph shall include the time the person is detained prior to the issuance of the court order. The time limitation provided for in this paragraph shall not include the actual travel time required for transporting the person to the jail, police station, or similar law enforcement office. If the time limitation established by this paragraph is exceeded, this circumstance shall not constitute a defense in any subsequent delinquency or criminal proceeding.

F. Nothing contained in this section shall in any way reduce or eliminate the liability of a county as otherwise provided by law for injury or damages resulting from the placement of a child in a jail, adult lockup, or other adult detention facility.

G. Any juvenile detention facility shall be available for use by any eligible Indian child as that term is defined by the Oklahoma Indian Child Welfare Act, providing that the use of the juvenile detention facility meets the requirements of the Oklahoma Juvenile Code. The Indian tribe may contract with any juvenile detention facility for the providing of detention services.

H. Each member of the staff of a juvenile detention facility shall satisfactorily complete a training program provided or approved by the Office of Juvenile Affairs.

I. Whenever a juvenile is placed in any jail, adult lockup, or other detention facility, the Office of Juvenile Affairs shall have access to all facilities which detain such juveniles and shall have access to any data regarding such juveniles. The Office of Juvenile

Affairs shall have access to all jails, adult lockups, or other adult facilities in this state, including all data maintained by such facilities, to assure compliance with this section. The Board of Juvenile Affairs shall promulgate rules as necessary to implement the provisions of this section.

Added by Laws 1982, c. 312, § 18, operative Oct. 1, 1982. Amended by Laws 1984, c. 219, § 1, eff. Nov. 1, 1984; Laws 1987, c. 209, § 1, eff. July 1, 1987; Laws 1988, c. 238, § 2, emerg. eff. June 24, 1988; Laws 1989, c. 363, § 4, eff. Nov. 1, 1989; Laws 1991, c. 296, § 7, eff. Sept. 1, 1991; Laws 1992, c. 298, § 21, eff. July 1, 1993; Laws 1993, c. 342, § 6, eff. July 1, 1993; Laws 1994, c. 2, § 3, emerg. eff. March 2, 1994; Laws 1994, c. 290, § 35, eff. July 1, 1994; Laws 1995, c. 352, § 149, eff. July 1, 1995. Renumbered from § 1107.1 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1996, c. 247, § 21, eff. July 1, 1996; Laws 1997, c. 15, § 1, eff. Nov. 1, 1997; Laws 2002, c. 473, § 7, eff. Nov. 1, 2002; Laws 2003, c. 3, § 9, eff. March 19, 2003; Laws 2009, c. 234, § 70, emerg. eff. May 21, 2009. Renumbered from § 7304-1.1 of Title 10 by Laws 2009, c. 234, § 185, emerg. eff. May 21, 2009. Amended by Laws 2013, c. 404, § 16, eff. Nov. 1, 2013; Laws 2014, c. 70, § 1, eff. Nov. 1, 2014; Laws 2015, c. 54, § 3, emerg. eff. April 10, 2015; Laws 2016, c. 234, § 2, eff. Nov. 1, 2016.

NOTE: Laws 1993, c. 205, § 2 repealed by Laws 1994, c. 2, § 34, emerg. eff. March 2, 1994. Laws 2002, c. 327, § 31 repealed by Laws 2003, c. 3, § 10, eff. March 19, 2003. Laws 2014, c. 362, § 4 repealed by Laws 2015, c. 54, § 4, emerg. eff. April 10, 2015.

§10A-2-3-102. Persons under 18 years of age who have fled from another state considered adults for purposes of detention only in certain cases.

Whenever a person under eighteen (18) years of age, who has fled from another state, is taken into custody, that person shall be considered an adult only for the purposes of detention if:

1. The person has been charged with commission of an offense in the other state which is considered a felony in that state; and
2. The person is certified as an adult in that state for the purpose of criminal prosecution for said felony or has reached the statutory age of majority in that state; and
3. The other state is seeking the return of the individual to its jurisdiction and provides written or electronically transmitted confirmation, which is received within forty-eight (48) hours after the person is taken into custody.

Added by Laws 1993, c. 205, § 1, eff. Sept. 1, 1993. Amended by Laws 1994, c. 290, § 33, eff. July 1, 1994; Laws 1995, c. 352, § 150, eff. July 1, 1995. Renumbered from § 1104.3 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Renumbered from § 7304-1.2 of Title 10 by Laws 2009, c. 234, § 185, emerg. eff. May 21, 2009.

§10A-2-3-103. Temporary detention - Transportation - Certification of juvenile detention facilities.

A. Provision shall be made for the temporary detention of children in a juvenile detention facility or the court may arrange for the care and custody of such children temporarily in private homes, subject to the supervision of the court, or the court may provide shelter or may enter into a contract with any institution or agency to receive, for temporary care and custody, children within the jurisdiction of the court. The Office of Juvenile Affairs shall not be ordered to provide detention unless said Office has designated and is operating detention services or facilities.

B. County sheriffs, their designee, private contractors under contract with the Office of Juvenile Affairs for transportation services, or juvenile court officers shall provide for the transportation of juveniles to and from secure detention for purposes of admission, interfacility transfer, discharge, medical or dental attention, court appearance, or placement designated by the Office. No private contract for transportation services shall be entered into by the Office unless the private contractor demonstrates to the satisfaction of the Office that such contractor is able to obtain insurance or provide self-insurance to indemnify the Office against possible lawsuits and meets the requirements of subparagraphs a, b and d of paragraph 4 of subsection C of this section. The Office of Juvenile Affairs shall not be ordered to provide transportation for a juvenile who is detained in or is destined for secure detention. The Office of Juvenile Affairs shall provide reimbursement to the entity transporting juveniles for necessary and actual expenses for transporting juveniles who are detained in or destined for a secure detention center as follows:

1. A fee for the cost of personal services at the rate of Twelve Dollars (\$12.00) per hour;
2. Mileage reimbursement for each mile actually traveled at the rate established in the State Travel Reimbursement Act;
3. Meals for transporting personnel, not to exceed Six Dollars (\$6.00) per meal; and
4. Meals for juveniles being transported, not to exceed Six Dollars (\$6.00) per meal.

The Office of Juvenile Affairs shall process and mail reimbursement claims within sixty (60) days of receipt. Payments for services provided by a county sheriff's office shall be paid to the county and deposited in the service fee account of the sheriff.

C. 1. All juvenile detention facilities shall be certified by the Office of Juvenile Affairs. To be certified, a juvenile detention facility shall be required to meet standards for certification promulgated by the Board of Juvenile Affairs.

2. The board of county commissioners of every county shall provide for the temporary detention of a child who is or who may be subject to secure detention and may construct a building or rent space for such purpose. The boards of county commissioners shall provide for temporary detention services and facilities in accordance with the provisions of the State Plan for the Establishment of Juvenile Detention Services adopted pursuant to subsection D of this section and in accordance with subsections A and C of Section 2-7-608 of this title. The boards of county commissioners are hereby authorized to create multicounty trust authorities for the purpose of operating juvenile detention facilities.

3. In order to operate the juvenile detention facilities designated in the State Plan for the Establishment of Juvenile Detention Services and in subsections A and C of Section 2-7-608 of this title, the boards of county commissioners in the designated host counties shall:

- a. operate the juvenile detention facility through a statutorily constituted juvenile bureau subject to the supervision of the district court, or
- b. operate the juvenile detention facility by employing a manager who may employ personnel and incur other expenses as may be necessary for its operation and maintenance, or
- c. contract with a public agency, private agency, federally recognized tribe, or single or multi-county trust authority for the operation of the juvenile detention facility. In the event any board of county commissioners contracts with a public or private agency or a federally recognized tribe, pursuant to the provisions of this section, the Office is authorized to directly contract with and pay such public or private agency or federally recognized tribe for provision of detention services. Any contract with a federally recognized tribe shall become effective upon approval by the board of county commissioners.

4. Management contracts for privately operated detention facilities shall be negotiated with the firm found most qualified by the board of county commissioners. However, no private management contract shall be entered into by the board unless the private contractor demonstrates to the satisfaction of the board:

- a. that the contractor has the qualifications, experience, and personnel necessary to implement the terms of the contract,
- b. that the financial condition of the contractor is such that the term of the contract can be fulfilled,
- c. that the ability of the contractor to obtain insurance or provide self-insurance to indemnify the county

against possible lawsuits and to compensate the county for any property damage or expenses incurred due to the private operation of the juvenile detention facility, and

- d. that the contractor has the ability to comply with applicable court orders and rules of the Office of Juvenile Affairs.

5. All counties to be served by a secure juvenile detention facility may, upon the opening of such facility, contract with the operators for the use of the facility for the temporary detention of children who are subject to secure detention; provided, however, a jail, adult lockup, or other adult detention facility may be used for the secure detention of a child as provided for in Section 2-3-101 of this title.

6. Expenses incurred in carrying out the provisions of this section shall be paid from the general fund of the county or from other public funds lawfully appropriated for such purposes or from private funds that are available for such purposes. A county may also issue bonds for the construction of detention facilities.

7. The operation of a juvenile detention facility by a county shall constitute a quasi-judicial function and is also hereby declared to be a function of the State of Oklahoma for purposes of the Eleventh Amendment to the United States Constitution. In addition, no contract authorized by the provisions of this section for the providing of transportation services or for the operation of a juvenile detention facility shall be awarded until the contractor demonstrates to the satisfaction of the county that the contractor has obtained liability insurance with the limits specified by The Governmental Tort Claims Act against lawsuits arising from the operation of the juvenile detention facility by the contractor, or if the contract is for the providing of transportation services, the contractor has obtained liability insurance with the limits specified by The Governmental Tort Claims Act against lawsuits arising from the transportation of juveniles as authorized by subsection A of this section.

D. The Board of Juvenile Affairs, from monies appropriated for that purpose, shall develop, adopt, and implement a plan for secure juvenile detention services and alternatives to secure detention, to be known as the State Plan for the Establishment of Juvenile Detention Services, which shall provide for the establishment of juvenile detention facilities and services with due regard for appropriate geographical distribution and existing juvenile detention programs operated by statutorily constituted juvenile bureaus. Said plan may be amended or modified by the Board as necessary and appropriate. Until said plan is adopted by the Board, the plan adopted by the Commission for Human Services shall remain in effect.

1. The Board of Juvenile Affairs shall establish procedures for the letting of contracts or grants, including grants to existing juvenile detention programs operated by statutorily constituted juvenile bureaus, and the conditions and requirements for the receipt of said grants or contracts for juvenile detention services and facilities as provided in this section and Section 2-7-401 of this title. A copy of such procedures shall be made available to any member of the general public upon request. All such grants or contracts shall require the participation of local resources in the funding of juvenile detention facilities. A contract for services shall be based upon a formula approved by the Board which shall set the contract amount in accordance with the services offered and the degree of compliance with standards for certification.

2. The Board of Juvenile Affairs shall establish standards for the certification of detention services and juvenile detention facilities. Such standards may include, but not be limited to: screening for detention; education and recreation opportunities for juveniles in secure detention; and accreditation by the American Correctional Association. As a condition of continuing eligibility for grants or contracts, secure juvenile detention services and facilities shall be certified by the Board within two (2) years of the date of the initial grant or contract.

E. The State Department of Health, with the assistance of the Office of Juvenile Affairs, shall establish standards for the certification of jails, adult lockups, and adult detention facilities used to detain juveniles. Such standards shall include but not be limited to: separation of juveniles from adults; supervision of juveniles; and health and safety measures for juveniles. The Department of Health is authorized to inspect any jail, adult lockup, or adult detention facility for the purpose of determining compliance with such standards. No jail, adult lockup, or other adult detention facility shall be used to detain juveniles unless such jail, adult lockup, or other adult detention facility complies with the standards established by the Department of Health and is designated as a place for the detention of juveniles by the judge having juvenile docket responsibility in the county from a list of eligible facilities supplied by the Department of Health.

The development and approval of the standards provided for in this paragraph shall comply with the provisions of the Administrative Procedures Act.

F. The State Board of Health shall promulgate rules providing for the routine recording and reporting of the use of any adult jail, lockup or other adult facility for the detention of any person under the age of eighteen (18).

1. For the purpose of ensuring the uniformity and compatibility of information related to the detention of persons under age eighteen (18), said rules shall be reviewed and approved by the Oklahoma

Commission on Children and Youth prior to their adoption by the Board; and

2. Records of detention shall be reviewed during each routine inspection of adult jails, lockups or other adult detention facilities inspected by the State Department of Health and a statistical report of said detentions shall be submitted to the Office of Juvenile Affairs at least every six (6) months in a form approved by the Board of Juvenile Affairs.

Added by Laws 1968, c. 282, § 108, eff. Jan. 13, 1969. Amended by Laws 1969, c. 273, § 1, emerg. eff. April 24, 1969; Laws 1977, c. 259, § 9, eff. Oct. 1, 1977; Laws 1982, c. 312, § 19, operative Oct. 1, 1982; Laws 1984, c. 219, § 2, eff. Nov. 1, 1984; Laws 1985, c. 253, § 2, emerg. eff. July 15, 1985; Laws 1987, c. 209, § 2, eff. July 1, 1987; Laws 1988, c. 238, § 3, emerg. eff. June 24, 1988; Laws 1989, c. 363, § 5, eff. Nov. 1, 1989; Laws 1990, c. 238, § 6, emerg. eff. May 21, 1990; Laws 1991, c. 296, § 28, eff. Sept. 1, 1991; Laws 1993, c. 320, § 2, emerg. eff. June 7, 1993; Laws 1994, c. 290, § 36, eff. July 1, 1994; Laws 1995, c. 352, § 151, eff. July 1, 1995. Renumbered from § 1108 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1996, c. 247, § 22, eff. July 1, 1996; Laws 1997, c. 293, § 21, eff. July 1, 1997; Laws 2000, c. 177, § 9, eff. July 1, 2000; Laws 2009, c. 234, § 71, emerg. eff. May 21, 2009. Renumbered from § 7304-1.3 of Title 10 by Laws 2009, c. 234, § 185, emerg. eff. May 21, 2009. Amended by Laws 2016, c. 67, § 1, eff. Nov. 1, 2016.

NOTE: Laws 1987, c. 80, § 11 repealed by Laws 1988, c. 238, § 6, emerg. eff. June 24, 1988.

§10A-2-3-104. Tort liability coverage of juvenile detention services - Contracts between boards of county commissioners.

The board of county commissioners of each county in this state is authorized to enter into a contract with the county commissioners of another county or counties to provide insurance coverage for any tort liability risk incurred as a result of providing or providing for the temporary detention of children in a juvenile detention facility pursuant to the provisions of the Oklahoma Juvenile Code.

Added by Laws 1988, c. 134, § 3, emerg. eff. April 19, 1988. Amended by Laws 1995, c. 352, § 152, eff. July 1, 1995. Renumbered from § 1108.1 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Renumbered from § 7304-1.4 of Title 10 by Laws 2009, c. 234, § 185, emerg. eff. May 21, 2009.

§10A-2-4-101. Juvenile bureau and citizens' advisory committee.

A. In each county having a population of eighty thousand (80,000) or more, as shown by the last preceding Federal Decennial Census, there is created a juvenile bureau and a citizens' advisory committee.

1. The juvenile bureau shall be responsible for the provision of juvenile justice services to children, youth, and families located within its county and subject to the jurisdiction of the juvenile division of that county's district court.

2. For the purposes of this section, "juvenile justice services" may include, but not be limited to:

- a. services provided to the child or youth to remediate or alleviate the conditions that led to court involvement, including educational, vocational-educational, medical, substance abuse treatment, and other programs that may be beneficial to the child or youth,
- b. services provided to the parent, legal guardian, legal custodian, stepparent, or other family members or adults subjecting themselves to the jurisdiction of the court to remediate or alleviate the conditions that led to the adjudication of the child or youth, including programs to strengthen the family unit, prevent or correct child abuse or neglect, or to assist the family in providing proper care and supervision of the child or youth,
- c. community-based diversion and preventive services and programs to assist in diverting children and youth from the juvenile justice system. Such programs may include, but not be limited to, medical, educational, vocational, social and psychological guidance, training, counseling, substance abuse treatment, recreation, mediation, crisis intervention, transitional living, independent living and other rehabilitative services, and
- d. services or programs provided in collaboration with other juvenile justice agencies or programs as defined in Section 2-7-902 of this title.

3. Nothing in this section shall be construed to prevent the Office of Juvenile Affairs or Board of Juvenile Affairs from contracting with designated Youth Services Agencies as provided for in Section 2-7-306 of this title. The services provided in paragraph 1 of subsection A of this section shall be in addition to, or in collaboration with, other state, municipal or privately funded services to children and youth in the county therein.

B. In each county having a duly constituted juvenile bureau as of January 1, 2005, as provided for in subsection A of this section, the juvenile bureau shall remain in place and continue in operation. No other counties shall establish juvenile bureaus.

Added by Laws 1968, c. 282, § 201, eff. Jan. 13, 1969. Amended by Laws 1981, c. 176, § 1; Laws 1995, c. 352, § 153, eff. July 1, 1995. Renumbered from § 1201 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 2004, c. 305, § 1, emerg. eff. May 17,

2004; Laws 2008, c. 385, § 1, eff. Nov. 1, 2008; Laws 2009, c. 234, § 73, emerg. eff. May 21, 2009. Renumbered from § 7305-1.1 of Title 10 by Laws 2009, c. 234, § 186, emerg. eff. May 21, 2009. Amended by Laws 2010, c. 278, § 17, eff. Nov. 1, 2010; Laws 2014, c. 335, § 1, emerg. eff. May 28, 2014.

§10A-2-4-102. Director and other personnel.

The chief administrative officer of the juvenile bureau shall be a director, who shall be subject to the direction and supervision of the judge of the Juvenile Division, subject to the general administrative authority of the Presiding Judge of the Judicial Administrative District within budgetary limitations. There shall be sufficient counselors, clerks and assistant clerks to properly conduct the work of the bureau. The director shall be a person over the age of thirty (30) years, of good character, qualified in social work, and familiar with the problems of juvenile delinquency and dependency. The director shall be appointed by the judge of the Juvenile Division, subject to the general administrative authority of the Presiding Judge of the Judicial Administrative District, from a list of eligible persons established by the citizens' advisory committee at the request of the Presiding Judge of the Judicial Administrative District. Counselors and other persons may be employed by the director with the approval of the judge of the Juvenile Division, subject to the general administrative authority of the Presiding Judge of the Judicial Administrative District. The director may be removed by the judge of the Juvenile Division, subject to the general administrative authority of the Presiding Judge of the Judicial Administrative District at any time. The counselors and other employees may be removed by the director. Added by Laws 1968, c. 282, § 202, eff. Jan. 13, 1969. Amended by Laws 1995, c. 352, § 154, eff. July 1, 1995. Renumbered from § 1202 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 2007, c. 176, § 2, eff. Nov. 1, 2007. Renumbered from § 7305-1.2 of Title 10 by Laws 2009, c. 234, § 186, emerg. eff. May 21, 2009.

§10A-2-4-103. Administrative work of court - Uniformity of procedures and care.

A. The director, under the general supervision of the judge, shall organize, direct and develop the administrative work of the court, including the social, financial and clerical work, and the director shall perform such other duties as to children as any judge of the court shall direct. The technical and professional employees shall have charge of cases assigned to them for investigation or treatment and shall perform such other duties as may be assigned to them by the director.

B. To assure uniformity of procedures and care throughout the state, each juvenile bureau shall perform its statutory duties for children alleged or adjudicated to be in need of supervision or delinquent in accordance with the procedures and guidelines promulgated by the Board of Juvenile Affairs and implemented by the Office of Juvenile Affairs.

Added by Laws 1968, c. 282, § 203, eff. Jan. 13, 1969. Amended by Laws 1994, c. 290, § 46, eff. July 1, 1994; Laws 1995, c. 352, § 155, eff. July 1, 1995. Renumbered from § 1203 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 2009, c. 234, § 74, emerg. eff. May 21, 2009. Renumbered from § 7305-1.3 of Title 10 by Laws 2009, c. 234, § 186, emerg. eff. May 21, 2009.

§10A-2-4-104. Investigations and reports - Legal proceedings.

A. It shall be the duty of the director and other employees of the juvenile bureau, at the request of and under the direction of the court, to investigate and report on all cases that are pending in the Juvenile Docket of the district court, and to investigate and report on all cases of delinquent children and children in need of supervision, residing or being in the county. The director and counselors shall have the power to file, or cause to be filed, information or complaint and to institute and commence the necessary legal proceedings for the purpose of carrying into effect the laws of this state relating to delinquent children and children in need of supervision, and the director and counselors shall investigate and report to the court for appropriate legal action the existence and maintenance of any place or public resort or institution in the county which is or may be detrimental to morals and welfare of children. It shall be the duty of the court clerk to assign adequate personnel to perform the clerical duties necessary and incidental to the operation of the Juvenile Docket of the court.

B. All penal, eleemosynary or other institutions under the jurisdiction of the State of Oklahoma and any law enforcement agency or officer of the State of Oklahoma or of any city or county within the state shall furnish the director and assistants of the director with any and all information requested by them pertaining to any person under the jurisdiction of the court.

Added by Laws 1968, c. 282, § 204, eff. Jan. 13, 1969. Amended by Laws 1995, c. 352, § 156, eff. July 1, 1995. Renumbered from § 1204 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Renumbered from § 7305-1.4 of Title 10 by Laws 2009, c. 234, § 186, emerg. eff. May 21, 2009.

§10A-2-4-105. Arrests - Service of process.

A. The director or assistants to the director may arrest without a warrant a probationer, parolee or any person who is a temporary or permanent ward of the court, or may deputize any other officer or

person with power of arrest by giving such officer or person a written statement setting forth that a probationer, parolee or ward of the court has in the judgment of the director or assistants violated the conditions of probation.

B. The director and assistants to the director shall have and are hereby vested with authority to serve all process issued by the court in juvenile dependent, neglect and delinquency cases, and hereby are vested with authority to make arrests and transport juveniles in accordance with the laws of this state.

Added by Laws 1968, c. 282, § 205, eff. Jan. 13, 1969. Amended by Laws 1995, c. 352, § 157, eff. July 1, 1995. Renumbered from § 1205 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995.

Renumbered from § 7305-1.5 of Title 10 by Laws 2009, c. 234, § 186, emerg. eff. May 21, 2009.

#### §10A-2-4-106. Transportation of juveniles - Expenses.

The director or assistants to the director shall have authority to transport all juveniles found to come within the purview of this article to place or places where the order of the court requires such juveniles to be confined or placed, and the director and assistants to the director shall be paid the actual expenses incurred in carrying out the orders and judgment of the court in addition to a mileage fee of ten cents (\$0.10) per mile for miles actually traveled in executing the duties of the director or assistants by order of the judge.

Added by Laws 1968, c. 282, § 206, eff. Jan. 13, 1969. Amended by Laws 1995, c. 352, § 158, eff. July 1, 1995. Renumbered from § 1206 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995.

Renumbered from § 7305-1.6 of Title 10 by Laws 2009, c. 234, § 186, emerg. eff. May 21, 2009.

#### §10A-2-4-107. Salaries and expenses - Offices and equipment.

A. 1. The salary of the director and other employees of the bureau and any detention home established pursuant to Section 2-4-108 of this title shall be fixed by the judge of the Juvenile Division, subject to the general administrative authority of the county commissioners of the contracting county. The salary of the director shall not exceed ninety percent (90%) of salaries of county Class A officers.

2. The salary of any other employee of the juvenile bureau shall not exceed eighty-five percent (85%) of Class A county officers.

B. The judge of the Juvenile Division, subject to the general administrative authority of the county commissioners of the contracting county, may fix a limit on the amount of expenses that may be incurred by the director and assistants to the director, such limit to be in the judgment of the judge adequate to care for the expenses necessary to carrying out the orders of the court in an

efficient and expedient manner. The director and assistants to the director and other personnel of the court shall keep and maintain their offices at the place where the office of the judge of the court is kept, unless the judge of the Juvenile Division, subject to the general administrative authority of the county commissioners of the contracting county, shall direct otherwise. The offices of the director and assistants to the director shall contain adequate equipment, desk space and consultation rooms necessary for appropriate office procedure.

C. In addition to their salaries, the director and assistants to the director shall be reimbursed at the same rate as state employees for mileage traveled by them in the investigation of court cases and in supervising probationers. The director and assistants may also receive reimbursement, at the rate and in the manner applicable to other county officers, for actual and necessary expenses incurred by them in attending conferences, meetings, seminars or official business of the court either within or outside of the State of Oklahoma.

D. In all counties having a juvenile bureau, the budget of the juvenile bureau for salaries and expenses of the director, counselors and other employees shall be established and funded as follows:

1. All expenses incurred in complying with the provisions of this article shall be a county charge or funded by a special sales tax dedicated to juvenile programs and expenses;

2. The salaries and other compensation of all employees of the juvenile bureau shall be fixed by the judge within the limit of the total appropriations therefor; and

3. It is made the duty of the county excise board to make the necessary appropriation and levy for the payment of salaries of the director and all other employees, together with the expenses of administering the bureau, consistent with the duty to do likewise with the budget estimates of other county officers under the board's jurisdiction, as required by the Constitution and laws of this state.

4. Except in instances where it is entitled to representation because of insurance coverage, the district attorney of the county in which the juvenile bureau is located shall represent the juvenile bureau and any employee who was acting in his or her official capacity at the time of the act or omission complained of in any lawsuit. If the district attorney has a conflict of interest or otherwise declines to represent the juvenile bureau or its employees, the county commissioners may request the assistance of the Attorney General or authorize the employment of private counsel for the juvenile bureau and its employees in their official capacity.

Added by Laws 1968, c. 282, § 207, eff. Jan. 13, 1969. Amended by Laws 1974, c. 272, § 1, emerg. eff. May 29, 1974; Laws 1979, c. 248, § 3, eff. Oct. 1, 1979; Laws 1987, c. 105, § 1, eff. Nov. 1, 1987; Laws 1995, c. 352, § 159, eff. July 1, 1995. Renumbered from § 1207

of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 2005, c. 145, § 1, eff. Nov. 1, 2005; Laws 2008, c. 385, § 2, eff. Nov. 1, 2008; Laws 2009, c. 234, § 75, emerg. eff. May 21, 2009. Renumbered from § 7305-1.7 of Title 10 by Laws 2009, c. 234, § 186, emerg. eff. May 21, 2009. Amended by Laws 2013, c. 404, § 17, eff. Nov. 1, 2013; Laws 2018, c. 155, § 3, eff. Nov. 1, 2018.

§10A-2-4-108. Detention and group homes.

A detention home and group homes may be established as parts of the juvenile bureau of the court. The judge of the Juvenile Division, subject to the general administrative authority of the Presiding Judge of the Judicial Administrative District, may appoint necessary technicians and other employees for such homes in the same manner as is provided herein for the appointment of other employees of the bureau. The salaries of the technicians and other employees of the detention and group homes shall be fixed and paid in the same manner as the salaries of other employees.

Added by Laws 1968, c. 282, § 208, eff. Jan. 13, 1969. Amended by Laws 1995, c. 352, § 160, eff. July 1, 1995. Renumbered from § 1208 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Renumbered from § 7305-1.8 of Title 10 by Laws 2009, c. 234, § 186, emerg. eff. May 21, 2009. Amended by Laws 2009, c. 338, § 24, eff. July 1, 2009.

§10A-2-4-109. Citizens' advisory committee.

A. To aid in the more effective administration of the statutes relating to juveniles and for the purpose of counsel and advice, there is created a citizens' advisory committee consisting of a minimum of seven members, to serve without pay, appointed by the judge of the Juvenile Division assigned to try juvenile cases, who shall serve for a period of four (4) years and until their successors are appointed.

B. The membership of such committee shall contain an official or employee of the public schools of the county, a professional social worker employed by any recognized social agency in the county, a member of the board of county commissioners of the county, an attorney licensed to practice in the State of Oklahoma to be selected by the members of the County Bar Association of the county, and three other members selected at will by the judge of the Juvenile Division; and of the seven members, three shall be women, and all members shall, at the date of their appointment, be legal residents of the county.

Added by Laws 1968, c. 282, § 209, eff. Jan. 13, 1969. Amended by Laws 1986, c. 5, § 1, emerg. eff. March 17, 1986; Laws 1995, c. 352, § 161, eff. July 1, 1995. Renumbered from § 1209 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Renumbered from § 7305-1.9 of Title 10 by Laws 2009, c. 234, § 186, emerg. eff. May 21, 2009.

§10A-2-4-110. Appointment of personnel for Juvenile Docket of district court.

The provisions of this article shall govern the appointment of all personnel for the Juvenile Docket of the district court in any county referred to in Section 2-4-101 of this title. Provided, employees now holding positions in a Juvenile or Children's Court shall remain in similar positions in the juvenile bureau until such time as the judge of the Juvenile Division, subject to the general administrative authority of the Presiding Judge of the Judicial Administrative District, shall otherwise direct, and any balances in appropriations for the maintenance and operation of the administrative personnel and organization under a Juvenile Court Act or Children's Court Act shall continue to be appropriated and shall be used for the operation of the juvenile bureau in the performance of duties set forth in this article.

Added by Laws 1968, c. 282, § 210, eff. Jan. 13, 1969. Amended by Laws 1995, c. 352, § 162, eff. July 1, 1995. Renumbered from § 1210 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 2009, c. 234, § 76, emerg. eff. May 21, 2009. Renumbered from § 7305-1.10 of Title 10 by Laws 2009, c. 234, § 186, emerg. eff. May 21, 2009.

§10A-2-5-101. Repealed by Laws 2018, c. 155, § 10, eff. Nov. 1, 2018.

§10A-2-5-201. Short title - Implementation date.

Sections 2-5-201 through 2-5-213 of this title shall be known and may be cited as the "Youthful Offender Act". The Youthful Offender Act shall be implemented beginning January 1, 1998.

Added by Laws 1994, c. 290, § 18, eff. July 1, 1996. Amended by Laws 1995, c. 352, § 164, eff. July 1, 1997. Renumbered from § 1507.15 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1996, c. 247, § 24, eff. July 1, 1997; Laws 1997, c. 293, § 23, eff. July 1, 1997; Laws 2009, c. 234, § 79, emerg. eff. May 21, 2009. Renumbered from § 7306-2.1 of Title 10 by Laws 2009, c. 234, § 188, emerg. eff. May 21, 2009.

NOTE: Laws 1996, c. 247, § 48 amended the effective date of Laws 1995, c. 352, § 164 from July 1, 1996, to July 1, 1997.

§10A-2-5-202. Definitions - Purpose.

A. For the purposes of the Youthful Offender Act:

1. "Youthful offender" means a person:

- a. thirteen (13) or fourteen (14) years of age who is charged with murder in the first degree and certified as a youthful offender as provided by Section 2-5-205 of this title,

- b. fifteen (15), sixteen (16), or seventeen (17) years of age and charged with a crime listed in subsection A of Section 2-5-206 of this title, and
- c. sixteen (16) or seventeen (17) years of age and charged with a crime listed in subsection B of Section 2-5-206 of this title,

if the offense was committed on or after January 1, 1998;

2. "Sentenced as a youthful offender" means the imposition of a court order making disposition of a youthful offender as provided by Section 2-5-209 of this title which shall constitute an adult criminal sentence if the youthful offender is transferred to the custody or supervision of the Department of Corrections; and

3. "Next friend" means an individual or executive of an organization who has assumed a parental role without formal legal proceedings, but to all objective observers is readily identified as custodian or guardian in fact.

B. It is the purpose of the Youthful Offender Act to better ensure the public safety by holding youths accountable for the commission of serious crimes, while affording courts methods of rehabilitation for those youths the courts determine, at their discretion, may be amenable to such methods. It is the further purpose of the Youthful Offender Act to allow those youthful offenders whom the courts find to be amenable to rehabilitation by the methods prescribed in the Youthful Offender Act to be placed in the custody or under the supervision of the Office of Juvenile Affairs for the purpose of accessing the rehabilitative programs provided by that Office.

Added by Laws 1994, c. 290, § 19, eff. July 1, 1996. Amended by Laws 1995, c. 352, § 165, eff. July 1, 1997. Renumbered from § 1507.16 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1997, c. 293, § 24, eff. July 1, 1997; Laws 2001, c. 357, § 3, eff. July 1, 2001; Laws 2006, c. 286, § 2, eff. July 1, 2006; Laws 2007, c. 1, § 9, emerg. eff. Feb. 22, 2007; Laws 2008, c. 277, § 1, emerg. eff. June 2, 2008; Laws 2009, c. 234, § 80, emerg. eff. May 21, 2009. Renumbered from § 7306-2.2 of Title 10 by Laws 2009, c. 234, § 188, emerg. eff. May 21, 2009.

NOTE: Laws 1996, c. 247, § 48 amended the effective date of Laws 1995, c. 352, § 165 from July 1, 1996, to July 1, 1997.

NOTE: Laws 2006, c. 285, § 1 repealed by Laws 2007, c. 1, § 10, emerg. eff. Feb. 22, 2007.

§10A-2-5-203. Court proceedings - Jurisdiction.

A. 1. A child who is charged with having violated any state statute or municipal ordinance other than as provided in Sections 2-5-205 and 2-5-206 of this title shall not be tried in a criminal action as an adult or a youthful offender, but in a juvenile

proceeding, unless certified as an adult pursuant to Section 2-2-403 of this title.

2. However, when multiple offenses occur within the same course of conduct within the same county and the person is prosecuted for at least one offense as a youthful offender pursuant to Section 2-5-205 or 2-5-206 of this title, then all the charges may be prosecuted under the same action pursuant to the provisions of the Youthful Offender Act, if so ordered by the court. The decision to join the cases shall not be appealable as a final order. If the offense listed in Section 2-5-205 or Section 2-5-206 of this title is subsequently dismissed for any reason, then any remaining pending charges shall be transferred to the juvenile court.

B. If, during the pendency of a criminal or quasi-criminal charge against any person, it shall be ascertained that the person was a child at the time of committing the alleged offense, the district court or municipal court shall transfer the case, together with all the papers, documents and testimony connected therewith, to the juvenile division of the district court. The division making such transfer shall order the child to be taken forthwith to the place of detention designated by the juvenile division, to that division itself, or release such child to the custody of some suitable person to be brought before the juvenile division.

C. Nothing in this section shall be construed to prevent the exercise of concurrent jurisdiction by another division of the district court or by municipal courts in cases involving children wherein the child is charged with the violation of a state or municipal traffic law or ordinance.

Added by Laws 1994, c. 290, § 20, eff. July 1, 1996. Amended by Laws 1995, c. 352, § 166, eff. July 1, 1997. Renumbered from § 1507.17 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1997, c. 293, § 25, eff. July 1, 1997; Laws 2000, c. 373, § 2, eff. July 1, 2000; Laws 2009, c. 234, § 81, emerg. eff. May 21, 2009. Renumbered from § 7306-2.3 of Title 10 by Laws 2009, c. 234, § 188, emerg. eff. May 21, 2009.

NOTE: Laws 1996, c. 247, § 48 amended the effective date of Laws 1995, c. 352, § 166 from July 1, 1996, to July 1, 1997.

§10A-2-5-204. Treatment of a child certified as an adult or youthful offender in criminal proceedings.

A. A child who is arrested for an offense pursuant to subsection A or B of Section 2-5-206 of this title, or who is certified as a youthful offender pursuant to Section 2-5-205 of this title, shall be charged by information in the same manner as provided for adults.

B. If the child is not otherwise represented by counsel and requests an attorney prior to or during interrogation, or whenever charged by information, as provided in subsection A of this section, the court shall appoint an attorney, who shall not be a district

attorney, for the child regardless of any attempted waiver by the parent, legal guardian, or other legal custodian of the child of the right of the child to be represented by counsel. Counsel shall be appointed by the court only upon determination by the court that the parent, legal guardian or legal custodian is found to be indigent.

C. When a person is certified to stand trial as an adult or a youthful offender as provided by the Youthful Offender Act, the accused person shall have all the statutory and constitutional rights and protections of an adult accused of a crime. All proceedings shall be as for a criminal action and the provisions of Title 22 of the Oklahoma Statutes shall apply, except as provided for in the Youthful Offender Act.

D. All youthful offender court records for a person who is certified to stand trial as an adult or youthful offender shall be considered adult records and shall not be subject to the provisions of Chapter 6 of the Oklahoma Juvenile Code; provided, however, all reports, evaluations, motions, records, exhibits or documents regarding the educational history, mental health or medical treatment or condition of the offender that are submitted to the court or admitted into evidence during the hearing on the motion for certification as a youthful offender to the juvenile system or motion for imposition of an adult sentence shall be confidential and shall be filed or admitted under seal, except that such records shall be provided to the Office of Juvenile Affairs. Any testimony regarding the reports, evaluations, motions, records, exhibits or documents shall be given in camera and shall not be open to the general public; provided, all persons having a direct interest in the case as provided in paragraph 1 of subsection A of Section 2-2-402 of this title shall be allowed to be present during the testimony but shall be admonished not to discuss the testimony following the hearing. All reports, evaluations, motions, records, exhibits or documents shall be released from under seal by order of the court if the youthful offender is sentenced to the custody or supervision of the Department of Corrections by the court pursuant to paragraph 1 of subsection B of Section 2-5-209 or paragraph 5 of subsection B of Section 2-5-210 of this title or if the juvenile or youthful offender is later charged as an adult with a felony crime.

E. Proceedings against a youthful offender shall be heard by any judge of the district court.

F. Upon arrest and detention of a person subject to the provisions of Section 2-5-205 or 2-5-206 of this title, the person has the same right to be released on bail as would an adult in the same circumstances and, if detained, may be detained in a county jail if separated by sight and sound from the adult population as otherwise authorized by law. If no such county jail is available, then such person may be detained at a juvenile detention facility. The sheriff, chief of police, or juvenile or adult detention facility

operator shall forthwith notify the Office of Juvenile Affairs of any such arrest and detention.

G. Upon certification for the imposition of an adult sentence, a verdict of guilty or entry of a plea of guilty or nolo contendere by a youthful offender who has been certified for the imposition of an adult sentence as provided by Section 2-5-208 of this title, the person may be detained as an adult and, if incarcerated, may be incarcerated with the adult population.

H. A child or youthful offender shall be tried as an adult in all subsequent criminal prosecutions, and shall not be subject to the jurisdiction of the juvenile court as a juvenile delinquent or youthful offender processes in any further proceedings if:

1. The child or youthful offender has been certified to stand trial as an adult pursuant to any certification procedure provided by law and is subsequently convicted of the alleged offense or against whom the imposition of judgment and sentence has been deferred; or

2. The youthful offender has been certified for the imposition of an adult sentence as provided by Section 2-5-208 of this title and is subsequently convicted of the alleged offense or against whom the imposition of judgment and sentencing has been deferred.

I. Except as otherwise provided in the Youthful Offender Act, a person who has been certified as a youthful offender shall be prosecuted as a youthful offender in all subsequent criminal proceedings until the youthful offender has attained eighteen (18) years of age.

All proceedings for the commission of a crime committed after a youthful offender has reached eighteen (18) years of age shall be adult proceedings.

Added by Laws 1994, c. 290, § 21, eff. July 1, 1996. Amended by Laws 1995, c. 352, § 167, eff. July 1, 1997. Renumbered from § 1507.18 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1997, c. 293, § 26, eff. July 1, 1997; Laws 1998, c. 268, § 10, eff. July 1, 1998; Laws 2000, c. 373, § 3, eff. July 1, 2000; Laws 2006, c. 286, § 3, eff. July 1, 2006; Laws 2008, c. 277, § 2, emerg. eff. June 2, 2008; Laws 2009, c. 234, § 82, emerg. eff. May 21, 2009. Renumbered from § 7306-2.4 of Title 10 by Laws 2009, c. 234, § 188, emerg. eff. May 21, 2009. Amended by Laws 2018, c. 155, § 4, eff. Nov. 1, 2018.

NOTE: Laws 1996, c. 247, § 48 amended the effective date in Laws 1995, c. 352, § 204 from July 1, 1996, to July 1, 1997.

§10A-2-5-205. Certification as youthful offender or juvenile.

A. Any person thirteen (13) or fourteen (14) years of age who is charged with murder in the first degree shall be held accountable for the act as if the person were an adult; provided, the person may be certified as a youthful offender or a juvenile as provided by this

section, unless the person is subject to the provisions of subsection H of Section 2-5-204 of this title.

B. Any person fifteen (15), sixteen (16) or seventeen (17) years of age who is charged with murder in the first degree at that time shall be held accountable for his or her act as if the person was an adult and shall not be subject to the provisions of the Youthful Offender Act or the provisions of the Juvenile Code for certification as a juvenile. The person shall have all the statutory rights and protections of an adult accused of a crime. All proceedings shall be as for a criminal action and the provisions of Title 22 of the Oklahoma Statutes shall apply. A person having been convicted as an adult pursuant to this paragraph shall be tried as an adult for every subsequent offense.

C. 1. Upon the filing of an adult criminal information against such accused person, a warrant shall be issued which shall set forth the rights of the accused person, and the rights of the parents, guardian or next friend of the accused person to be present at the preliminary hearing, to have an attorney present and to make application for certification of such accused person as a youthful offender to the district court for the purpose of prosecution as a youthful offender.

2. The warrant shall be personally served together with a certified copy of the information on the accused person and on a custodial parent, guardian or next friend of the accused person. The court may inquire of the accused as to the whereabouts of his or her parents, guardian, or next friend in order to avoid unnecessary delay in the proceedings.

3. When personal service of a custodial parent, guardian or next friend of the accused person cannot be effected, service may be made by certified mail to such person's last-known address, requesting a return receipt from the addressee only. If delivery is refused, notice may be given by mailing the warrant and a copy of the information on the accused person by regular first-class mail to the address where the person to be notified refused delivery of the notice sent by certified mail. Where the address of a custodial parent, guardian or next friend is not known, or if the mailed warrant and copy of the information on the accused person is returned for any reason other than refusal of the addressee to accept delivery, after a thorough search of all reasonably available sources to ascertain the whereabouts of a custodial parent, guardian or next friend has been conducted, the court may order that notice of the hearing be given by publication one time in a newspaper of general circulation in the county. In addition, the court may order other means of service of notice that the court deems advisable or in the interests of justice.

4. Before service by publication is ordered, the court shall conduct an inquiry to determine whether a thorough search has been

made of all reasonably available sources to ascertain the whereabouts of any party for whom notice by publication is sought.

D. 1. The accused person shall file any motions for certification as a youthful offender or a juvenile before the start of the criminal preliminary hearing. If both a motion for certification as a youthful offender and a motion for certification as a juvenile are filed, they shall both be heard at the same time. No motion for certification as a youthful offender or certification as a juvenile may be filed after the time specified in this subsection. Upon the filing of such motion, the complete juvenile record of the accused shall be made available to the district attorney and the accused person. All reports, evaluations, motions, records, exhibits or documents regarding the educational history, mental health or medical treatment or condition of the offender that are submitted to the court or admitted into evidence during the hearing on the motion for certification as a youthful offender to the juvenile system or motion for imposition of an adult sentence are confidential and shall be filed or admitted under seal, except that such records shall be provided to the Office of Juvenile Affairs. Any testimony regarding the reports, evaluations, motions, records, exhibits or documents shall be given in camera and shall not be open to the general public; provided, all persons having a direct interest in the case as provided in paragraph 1 of subsection A of Section 2-2-402 of this title shall be allowed to be present during the testimony but shall be admonished not to discuss the testimony following the hearing. All reports, evaluations, motions, records, exhibits or documents shall be released from under seal by order of the court if the youthful offender is sentenced to the custody or supervision of the Department of Corrections by the court pursuant to either paragraph 1 of subsection B of Section 2-5-209 or paragraph 5 of subsection B of Section 2-5-210 of this title or if the juvenile or youthful offender is later charged as an adult with a felony crime.

2. The court shall commence a preliminary hearing within ninety (90) days of the filing of the information, pursuant to Section 258 of Title 22 of the Oklahoma Statutes, to determine whether the crime was committed and whether there is probable cause to believe the accused person committed a crime. If the preliminary hearing is not commenced within ninety (90) days of the date the accused person is charged, the district court shall hold a hearing to determine the reasons for delay utilizing the procedure set out in Section 812.2 of Title 22 of the Oklahoma Statutes, to ensure the preliminary hearing is expedited. If the whereabouts of the accused are unknown at the time of the filing of the information or if the accused is a fugitive, the State of Oklahoma shall make reasonable efforts to locate the accused in order to commence the proceedings. An accused who flees the jurisdiction of the court or purposely avoids

apprehension for the charges, waives the right to have the preliminary hearing commenced within ninety (90) days of the filing of the information. An accused who fails to cooperate with providing information in locating the parents of the accused, guardian, or next friend for purpose of notice waives the right to have the preliminary hearing commence within ninety (90) days of the filing of the information. If the preliminary hearing did not commence within ninety (90) days from the filing of the information due to the absence or inability to locate the accused, the preliminary hearing shall commence within ninety (90) days after the state has actual notice of the in-state location of the accused. If the accused is found out of state, the court shall set the hearing within ninety (90) days after the accused has been returned to the State of Oklahoma.

3. At the conclusion of the state's case at the criminal preliminary hearing, the state and the accused person may offer evidence to support or oppose the motions for certification as a youthful offender or an alleged juvenile delinquent.

E. The court shall rule on any motions for certification as a youthful offender or an alleged juvenile delinquent before ruling on whether to bind the accused over for trial. When ruling on a motion for certification as a youthful offender or juvenile, the court shall give consideration to the following guidelines with greatest weight to be given to paragraphs 1, 2 and 3:

1. Whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner;

2. Whether the offense was against persons, and, if personal injury resulted, the degree of personal injury;

3. The record and past history of the accused person, including previous contacts with law enforcement agencies and juvenile or criminal courts, prior periods of probation and commitments to juvenile institutions;

4. The sophistication and maturity of the accused person and the capability of distinguishing right from wrong as determined by consideration of the person's psychological evaluation, home, environmental situation, emotional attitude and pattern of living;

5. The prospects for adequate protection of the public if the accused person is processed through the youthful offender system or the juvenile system;

6. The reasonable likelihood of rehabilitation of the accused person if such person is found to have committed the alleged offense, by the use of procedures and facilities currently available to the juvenile court; and

7. Whether the offense occurred while the accused person was escaping or on escape status from an institution for youthful offenders or delinquent children.

The court, in its decision on a motion for certification as a youthful offender or juvenile, shall detail findings of fact and conclusions of law to each of the above considerations, and shall state that the court has considered each of the guidelines in reaching its decision.

F. The order certifying a person as a youthful offender or an alleged juvenile delinquent or denying the request for certification as either a youthful offender or an alleged juvenile delinquent shall be a final order, appealable to the Court of Criminal Appeals when entered.

G. An order certifying the accused person as a youthful offender or an alleged juvenile delinquent shall not be reviewable by the trial court.

H. If the accused person is prosecuted as an adult and is subsequently convicted of the alleged offense or against whom the imposition of judgment and sentencing has been deferred, the person may be incarcerated with the adult population and shall be prosecuted as an adult in all subsequent criminal proceedings.

Added by Laws 1994, c. 290, § 22, eff. July 1, 1996. Amended by Laws 1995, c. 352, § 168, eff. July 1, 1997. Renumbered from § 1507.19 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1997, c. 293, § 27, eff. July 1, 1997; Laws 2000, c. 373, § 4, eff. July 1, 2000; Laws 2006, c. 286, § 4, eff. July 1, 2006; Laws 2007, c. 1, § 11, emerg. eff. Feb. 22, 2007; Laws 2009, c. 234, § 83, emerg. eff. May 21, 2009. Renumbered from § 7306-2.5 of Title 10 by Laws 2009, c. 234, § 188, emerg. eff. May 21, 2009. Amended by Laws 2018, c. 155, § 5, eff. Nov. 1, 2018.

NOTE: Laws 2006, c. 285, § 2 repealed by Laws 2007, c. 1, § 12, emerg. eff. Feb. 22, 2007.

NOTE: Laws 1996, c. 247, § 48 amended the effective date in Laws 1995, c. 352, § 204 from July 1, 1996, to July 1, 1997.

§10A-2-5-206. Certain acts mandating youthful offender status - Filing of delinquency petition or youthful offender information - Warrant, certification process - Guidelines.

A. Any person fifteen (15), sixteen (16) or seventeen (17) years of age who is charged with:

1. Murder in the second degree;
2. Kidnapping;
3. Manslaughter in the first degree;
4. Robbery with a dangerous weapon or a firearm or attempt thereof;
5. Robbery in the first degree or attempt thereof;
6. Rape in the first degree or attempt thereof;
7. Rape by instrumentation or attempt thereof;
8. Forcible sodomy;
9. Lewd molestation;

10. Arson in the first degree or attempt thereof; or  
11. Any offense in violation of Section 652 of Title 21 of the Oklahoma Statutes,  
shall be held accountable for such acts as a youthful offender.

B. Any person sixteen (16) or seventeen (17) years of age who is charged with:

1. Burglary in the first degree or attempted burglary in the first degree;

2. Battery or assault and battery on a state employee or contractor while in the custody or supervision of the Office of Juvenile Affairs;

3. Aggravated assault and battery of a police officer;

4. Intimidating a witness;

5. Trafficking in or manufacturing illegal drugs;

6. Assault or assault and battery with a deadly weapon;

7. Maiming;

8. Residential burglary in the second degree after two or more adjudications that are separated in time for delinquency for committing burglary in the first degree or residential burglary in the second degree;

9. Rape in the second degree; or

10. Use of a firearm while in commission of a felony,  
shall be held accountable for such acts as a youthful offender.

C. The district attorney may file a petition alleging the person to be a delinquent or may file an information against the accused person charging the person as a youthful offender. The district attorney shall notify the Office of Juvenile Affairs upon the filing of youthful offender charges.

D. 1. Upon the filing of the information against such alleged youthful offender, a warrant shall be issued which shall set forth the rights of the accused person, and the rights of the parents, guardian or next friend of the accused person to be present at the preliminary hearing, and to have an attorney present.

2. The warrant shall be personally served together with a certified copy of the information on the alleged youthful offender and on a custodial parent, guardian or next friend of the accused person.

3. When personal service of a custodial parent, guardian or next friend of the alleged youthful offender cannot be effected, service may be made by certified mail to the last-known address of the person, requesting a return receipt from the addressee only. If delivery is refused, notice may be given by mailing the warrant and a copy of the information on the accused person by regular first-class mail to the address where the person to be notified refused delivery of the notice sent by certified mail. Where the address of a custodial parent, guardian or next friend is not known, or if the mailed warrant and copy of the information on the accused person is

returned for any reason other than refusal of the addressee to accept delivery, after a distinct and meaningful search of all reasonably available sources to ascertain the whereabouts of a custodial parent, guardian or next friend has been conducted, the court may order that notice of the hearing be given by publication one time in a newspaper of general circulation in the county. In addition, the court may order other means of service of notice that the court deems advisable or in the interests of justice.

4. Before service by publication is ordered, the court shall conduct an inquiry to determine whether a thorough search has been made of all reasonably available sources to ascertain the whereabouts of any party for whom notice by publication is sought.

E. The court shall commence a preliminary hearing within ninety (90) days of the filing of the information pursuant to Section 258 of Title 22 of the Oklahoma Statutes, to determine whether the crime was committed and whether there is probable cause to believe the accused person committed the crime. If the preliminary hearing is not commenced within ninety (90) days, the state shall be prohibited from seeking an adult sentence unless the ninety-day requirement is waived by the defendant. If the whereabouts of the accused are unknown at the time of the filing of the information or if the accused is a fugitive, the State of Oklahoma shall make reasonable efforts to locate the accused in order to commence the proceedings. An accused who flees the jurisdiction of the court or purposely avoids apprehension for the charges, waives the right to have the preliminary hearing commenced within ninety (90) days of the filing of the information. If the preliminary hearing did not commence within ninety (90) days from the filing of the information due to the absence or inability to locate the accused, the preliminary hearing shall commence within ninety (90) days after the state has actual notice of the in-state location of the accused. If the accused is found out of state, the court shall set the hearing within ninety (90) days after the accused has been returned to the State of Oklahoma. An accused who fails to cooperate with providing information in locating the accused parent, guardian, or next friend for purpose of notice waives the right to have the preliminary hearing commence within ninety (90) days of the filing of the information.

F. 1. The accused person may file a motion for certification to the juvenile justice system before the start of the criminal preliminary hearing:

- a. upon the filing of such motion, the complete juvenile record of the accused shall be made available to the district attorney and the accused person,
- b. at the conclusion of the state's case at the criminal preliminary hearing, the accused person may offer

evidence to support the motion for certification as a child.

2. If no motion to certify the accused person to the juvenile justice system has been filed, at the conclusion of the criminal preliminary hearing the court may on its own motion hold a hearing on the matter of the certification of the accused youthful offender to the juvenile system.

3. All reports, evaluations, motions, records, exhibits or documents regarding the educational history, mental health or medical treatment or condition of the offender that are submitted to the court or admitted into evidence during the hearing on the motion for certification of the accused youthful offender to the juvenile system or motion for imposition of an adult sentence are confidential and shall be filed or admitted under seal, except that such records shall be provided to the Office of Juvenile Affairs. Any testimony regarding the reports, evaluations, motions, records, exhibits or documents shall be given in camera and shall not be open to the general public; provided, all persons having a direct interest in the case as provided in paragraph 1 of subsection A of Section 2-2-402 of this title shall be allowed to be present during the testimony but shall be admonished not to discuss the testimony following the hearing. All reports, evaluations, motions, records, exhibits or documents shall be released from under seal by order of the court if the youthful offender is sentenced to the custody or supervision of the Department of Corrections by the court pursuant to either paragraph 1 of subsection B of Section 2-5-209 or paragraph 5 of subsection B of Section 2-5-210 of this title or if the juvenile or youthful offender is later charged as an adult with a felony crime.

4. The court shall rule on the certification motion before ruling on whether to bind the accused over for trial. When ruling on the certification motion, the court shall give consideration to the following guidelines with the greatest weight given to subparagraphs a, b and c:

- a. whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner,
- b. whether the offense was against persons, and if personal injury resulted, the degree of personal injury,
- c. the record and past history of the accused person, including previous contacts with law enforcement agencies and juvenile or criminal courts, prior periods of probation and commitments to juvenile institutions,
- d. the sophistication and maturity of the accused person and the accused person's capability of distinguishing right from wrong as determined by consideration of the accused person's psychological evaluation, home,

environmental situation, emotional attitude and pattern of living,

- e. the prospects for adequate protection of the public if the accused person is processed through the youthful offender system or the juvenile system,
- f. the reasonable likelihood of rehabilitation of the accused person if the accused is found to have committed the alleged offense, by the use of procedures and facilities currently available to the juvenile court, and
- g. whether the offense occurred while the accused person was escaping or in an escape status from an institution for youthful offenders or juvenile delinquents.

5. In its decision on the motion for certification as an alleged juvenile delinquent, the court shall detail findings of fact and conclusions of law to each of the above considerations and shall state that the court has considered each of the guidelines in reaching its decision.

6. An order certifying a person or denying such certification to the juvenile justice system shall be a final order, appealable when entered.

G. Upon conviction, sentence may be imposed as a sentence for a youthful offender as provided by Section 2-5-209 of this title. If the youthful offender sentence is imposed as an adult sentence as provided by Section 2-5-208 of this title, the convicted person may be incarcerated with the adult population.

Added by Laws 1994, c. 290, § 23, eff. July 1, 1996. Amended by Laws 1995, c. 352, § 169, eff. July 1, 1997. Renumbered from § 1507.20 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1997, c. 293, § 28, eff. July 1, 1997; Laws 1998, c. 268, § 11, eff. July 1, 1998; Laws 2000, c. 373, § 5, eff. July 1, 2000; Laws 2006, c. 286, § 5, eff. July 1, 2006; Laws 2009, c. 234, § 84, emerg. eff. May 21, 2009. Renumbered from § 7306-2.6 of Title 10 by Laws 2009, c. 234, § 188, emerg. eff. May 21, 2009. Amended by Laws 2010, c. 226, § 2, eff. Nov. 1, 2010; Laws 2018, c. 155, § 6, eff. Nov. 1, 2018.

NOTE: Laws 1996, c. 247, § 48 amended the effective date in Laws 1995, c. 352, § 204 from July 1, 1996, to July 1, 1997.

§10A-2-5-207. Applicability to youths aged seventeen.

It is the intent of the Legislature to fully utilize the Youthful Offender Act as a means to protect the public while rehabilitating and holding youth accountable for serious crimes. The Legislature finds that eligible seventeen-year-olds should have the opportunity to be processed as youthful offenders as provided by law and held accountable through the various provisions of the Youthful Offender Act for custody, institutional placement, supervision, extended

jurisdiction within the Office of Juvenile Affairs, and the ability to transfer youthful offenders to the Department of Corrections when incarceration or additional supervision is required beyond the maximum age allowed in the Office of Juvenile Affairs. No older youth should be deemed ineligible or denied consideration as a youthful offender who is otherwise lawfully eligible based upon the age of the youth being seventeen (17) years, but it is the intent of the Legislature that such youthful offender shall not remain in the custody or under the supervision of the Office of Juvenile Affairs beyond the youthful offender's maximum age of eighteen (18) years and six (6) months or until nineteen (19) years of age if jurisdiction has been extended as provided in subsection B of Section 2-5-209 of this title. To deny access to an otherwise eligible older youth without cause is to circumvent the original intent of the Legislature in creating the Youthful Offender Act.

Added by Laws 2006, c. 239, § 2, eff. Nov. 1, 2006. Amended by Laws 2009, c. 234, § 85, emerg. eff. May 21, 2009. Renumbered from § 7306-2.7a of Title 10 by Laws 2009, c. 234, § 188, emerg. eff. May 21, 2009. Amended by Laws 2010, c. 397, § 1, emerg. eff. June 8, 2010; Laws 2018, c. 155, § 7, eff. Nov. 1, 2018.

§10A-2-5-208. Motion by district attorney to sentence child as an adult – Considerations – Standard of proof – Sentencing.

A. Whenever the district attorney believes that there is good cause to believe that a person charged as a youthful offender would not reasonably complete a plan of rehabilitation or the public would not be adequately protected if the person were to be sentenced as a youthful offender, and should receive an adult sentence, the district attorney shall file a motion for consideration of the imposition of the sentence as for an adult if the person is convicted:

1. Not more than thirty (30) days following formal arraignment and such motion will be ruled upon by the trial court; or the district attorney may file the motion to impose adult sentence fourteen (14) days prior to the start of the preliminary hearing and the preliminary hearing magistrate will rule on that motion. The district attorney must elect when to file the motion for adult sentence and if the motion is filed and argued to the magistrate, it cannot again be filed and argued to the trial court after arraignment; or

2. If, prior to that time, the accused person indicates to the court that the accused person wishes to plead guilty or nolo contendere, the court shall grant the state ten (10) days from that date to file the motion required by this subsection, if requested by the state.

B. Upon the filing of such motion and prior to the trial or before the entry of the plea of guilty or nolo contendere the court shall hold a hearing to determine the matter.

C. 1. The court shall order an investigation to be conducted unless waived by the accused person with approval of the court. Any such investigation required shall be conducted by the Office of Juvenile Affairs. All reports, evaluations, motions, records, exhibits or documents regarding the educational history, mental health or medical treatment or condition of the offender that are submitted to the court or admitted into evidence during the hearing on the motion for certification as a youthful offender to the juvenile system or the motion for imposition of an adult sentence are confidential and shall be filed or admitted under seal, except that such records shall be provided to the Office of Juvenile Affairs. Any testimony regarding the reports, evaluations, motions, records, exhibits or documents shall be given in camera and shall not be open to the general public; provided, all persons having a direct interest in the case as provided in paragraph 1 of subsection A of Section 2-2-402 of this title shall be allowed to be present during the testimony but shall be admonished not to discuss the testimony following the hearing. All reports, evaluations, motions, records, exhibits or documents shall be released from under seal by order of the court if the youthful offender is sentenced to the custody or supervision of the Department of Corrections by the court pursuant to either paragraph 1 of subsection B of Section 2-5-209 or paragraph 5 of subsection B of Section 2-5-210 of this title or if the juvenile or youthful offender is later charged as an adult with a felony crime.

2. At the hearing the court shall consider, with the greatest weight given to subparagraphs a, b and c:

- a. whether the offense was committed in an aggressive, violent, premeditated or willful manner,
- b. whether the offense was against persons and, if personal injury resulted, the degree of injury,
- c. the record and past history of the accused person, including previous contacts with law enforcement agencies and juvenile or criminal courts, prior periods of probation and commitments to juvenile institutions,
- d. the sophistication and maturity of the accused person and the capability of distinguishing right from wrong as determined by consideration of the psychological evaluation, home, environmental situation, emotional attitude and pattern of living of the accused person,
- e. the prospects for adequate protection of the public if the accused person is processed through the youthful offender system or the juvenile system,
- f. the reasonable likelihood of rehabilitation of the accused person if the accused person is found to have committed the alleged offense, by the use of procedures

and facilities currently available to the juvenile court, and

- g. whether the offense occurred while the accused person was escaping or on escape status from an institution for youthful offenders or delinquent children.

D. After the hearing and consideration of the report of the investigation, the court shall certify the person as eligible for the imposition of an adult sentence only if it finds by clear and convincing evidence that there is good cause to believe that the accused person would not reasonably complete a plan of rehabilitation or that the public would not be adequately protected if the person were to be sentenced as a youthful offender.

In its decision on the motion of the state for imposition of an adult sentence, the court shall detail findings of fact and conclusions of law to each of the considerations in subsection C of this section and shall state that the court has considered each of its guidelines in reaching its decision.

E. An order certifying or denying certification for imposition of an adult sentence shall be a final order, appealable when entered.

F. If the person has been certified as eligible to be sentenced as an adult, the court shall, upon a verdict of guilty or the entry of a plea of guilty or nolo contendere, impose sentence as provided by law for an adult for punishment of the offense committed, subject to the power and authority of the court to suspend or delay sentence, defer judgment, or otherwise structure, limit, or modify sentence as provided in Title 22 of the Oklahoma Statutes or the Youthful Offender Act. When sentence is imposed pursuant to this subsection, the person shall be treated as an adult for purposes of supervision, incarceration and in all subsequent criminal proceedings.

G. Upon a verdict of guilty or a plea of guilty or nolo contendere, the court may order the person to pay a fee to the Office of Juvenile Affairs of not less than Twenty-five Dollars (\$25.00), nor more than Five Hundred Dollars (\$500.00), for the presentence or certification investigation. In hardship cases, the court may waive the fee or set the amount of the fee and establish a payment schedule.

Added by Laws 1994, c. 290, § 25, eff. July 1, 1996. Amended by Laws 1995, c. 352, § 171, eff. July 1, 1997. Renumbered from § 1507.22 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1997, c. 293, § 29, eff. July 1, 1997; Laws 1999, c. 365, § 8, eff. Nov. 1, 1999; Laws 2000, c. 373, § 6, eff. July 1, 2000; Laws 2006, c. 286, § 6, eff. July 1, 2006; Laws 2009, c. 234, § 86, emerg. eff. May 21, 2009. Renumbered from § 7306-2.8 of Title 10 by Laws 2009, c. 234, § 188, emerg. eff. May 21, 2009. Amended by Laws 2018, c. 155, § 8, eff. Nov. 1, 2018.

NOTE: Laws 1996, c. 247, § 48 amended the effective date in Laws 1995, c. 352, § 204 from July 1, 1996, to July 1, 1997.

§10A-2-5-209. Presentence investigation - Hearing - Factors and considerations - Imposition of sentence - Confinement.

A. Upon a verdict of guilty or a plea of guilty or nolo contendere of a youthful offender and prior to the imposition of a youthful offender sentence by the court:

1. A youthful offender presentence investigation shall be conducted unless waived by the youthful offender with approval of the court or unless an investigation is conducted pursuant to subsection C of Section 2-5-208 of this title. All reports, evaluations, motions, records, exhibits or documents regarding the educational history, mental health or medical treatment or condition of the offender that are submitted to the court or admitted into evidence during the hearing on the motion for certification of the accused youthful offender to the juvenile system or motion for imposition of an adult sentence are confidential and shall be filed or admitted under seal, except that such records shall be provided to the Office of Juvenile Affairs. Any testimony regarding the reports, evaluations, motions, records, exhibits or documents shall be given in camera and shall not be open to the general public; provided, all persons having a direct interest in the case as provided in paragraph 1 of subsection A of Section 2-2-402 of this title shall be allowed to be present during the testimony but shall be admonished not to discuss the testimony following the hearing. All reports, evaluations, motions, records, exhibits or documents shall be released from under seal by order of the court if the youthful offender is sentenced to the custody or supervision of the Department of Corrections by the court pursuant to paragraph 1 of subsection B of Section 2-5-209 or paragraph 5 of subsection B of Section 2-5-210 of this title or if the juvenile or youthful offender is later charged as an adult with a felony crime. Any presentence investigation required by this section shall be conducted by the Office of Juvenile Affairs; and

2. The court shall conduct a hearing and shall consider, with the greatest weight given to subparagraphs a, b and c:

- a. whether the offense was committed in an aggressive, violent, premeditated or willful manner,
- b. whether the offense was against persons and, if personal injury resulted, the degree of personal injury,
- c. the record and past history of the person, including previous contacts with law enforcement agencies and juvenile or criminal courts, prior periods of probation and commitments to juvenile institutions,
- d. the sophistication and maturity of the person and the capability of distinguishing right from wrong as determined by consideration of the psychological

- evaluation, home, environmental situation, emotional attitude and pattern of living of the person,
- e. the prospects for adequate protection of the public if the person is processed through the youthful offender system or the juvenile system,
  - f. the reasonable likelihood of rehabilitation of the person if found to have committed the offense, by the use of procedures and facilities currently available to the juvenile, and
  - g. whether the offense occurred while the person was escaping or on escape status from an institution for youthful offenders or delinquent children.

B. 1. After the hearing and consideration of the report of the presentence investigation, the court shall impose sentence as a youthful offender, and such youthful offender shall be subject to the same type of sentencing procedures and duration of sentence, except for capital offenses, including suspension or deferment, as an adult convicted of a felony offense, except that any sentence imposed upon the youthful offender shall be served in the custody or under the supervision of the Office of Juvenile Affairs until the expiration of the sentence, the youthful offender is discharged, or the youthful offender reaches eighteen (18) years of age, whichever first occurs. If an individual sentenced as a youthful offender attains eighteen (18) years of age prior to the expiration of the sentence, such individual shall be returned to the sentencing court. At that time, the sentencing court shall make one of the following determinations:

- a. whether the youthful offender shall be returned to the Office of Juvenile Affairs to complete a treatment program, provided that the treatment program shall not exceed the youthful offender's attainment of eighteen (18) years and six (6) months of age. At the conclusion of the treatment program, the individual shall be returned to the sentencing court for a determination under subparagraph b, c or d of this paragraph,
- b. whether the youthful offender shall be placed in the custody of the Department of Corrections,
- c. whether the youthful offender shall be placed on probation with the Department of Corrections, or
- d. whether the youthful offender shall be discharged from custody.

2. The sentence imposed shall not exceed the maximum sentence already imposed in the originating sentence.

3. Upon the youthful offender attaining the age of eighteen (18) years and six (6) months, the Office of Juvenile Affairs may recommend that the youthful offender be returned to the custody or supervision of the Office of Juvenile Affairs until the age of

nineteen (19) years to complete the reintegration phase of the treatment program or community supervision as determined by the Office of Juvenile Affairs. During any period of extension, a youthful offender may be transferred to the Department of Corrections as provided in paragraph 5 of subsection B of Section 2-5-210 of this title, whether the youthful offender is placed in an out-of-home placement or in the community.

4. If the court has extended jurisdiction of the youthful offender until nineteen (19) years of age, the youthful offender shall remain in custody or under the supervision of the Office of Juvenile Affairs until the youthful offender has been discharged or sentenced by the court or until the youthful offender's nineteenth birthday, at which time the youthful offender shall be returned to the court for final disposition of the youthful offender's case. The court shall have the same dispositional options as provided in subparagraphs b, c and d of paragraph 1 of this subsection.

5. Any period of probation required by the sentencing court to be served shall be supervised by:

- a. the Office of Juvenile Affairs or designated representative, if the youthful offender is under eighteen (18) years of age, or
- b. the Department of Corrections or designated representative, upon the youthful offender attaining eighteen (18) years of age.

6. In addition to or in lieu of the placement of the youthful offender in the custody of or under the supervision of the Office of Juvenile Affairs, the court may issue orders with regard to the youthful offender as provided by law for the disposition of an adjudicated juvenile delinquent as long as the age of the youthful offender does not exceed nineteen (19) years.

7. It is the intent of the Oklahoma Legislature that youthful offenders be held insofar as is practical separate from the juvenile delinquent population.

8. The Office of Juvenile Affairs may make recommendations to the court concerning the disposition of the youthful offender.

9. Any order issued by the sentencing court under this subsection shall be a final order, appealable when entered.

C. A youthful offender who is seventeen (17) or eighteen (18) years of age or older and who has been sentenced to the custody of the Office of Juvenile Affairs may be detained in a county jail pending placement in an Office of Juvenile Affairs facility, provided the county jail meets the jail standards promulgated by the State Department of Health for juvenile offenders. The youthful offender who is eighteen (18) years of age or older may be held in the general population of the county jail.

Added by Laws 1994, c. 290, § 26, eff. July 1, 1996. Amended by Laws 1995, c. 352, § 172, eff. July 1, 1997. Renumbered from § 1507.23 of

Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1997, c. 293, § 30, eff. July 1, 1997; Laws 2000, c. 373, § 7, eff. July 1, 2000; Laws 2006, c. 286, § 7, eff. July 1, 2006; Laws 2008, c. 277, § 3, emerg. eff. June 2, 2008; Laws 2009, c. 116, § 1, eff. Nov. 1, 2009; Laws 2009, c. 234, § 87, emerg. eff. May 21, 2009. Renumbered from § 7306-2.9 of Title 10 by Laws 2009, c. 234, § 188, emerg. eff. May 21, 2009. Amended by Laws 2018, c. 155, § 9, eff. Nov. 1, 2018.

NOTE: Laws 1996, c. 247, § 48 amended the effective date in Laws 1995, c. 352, § 204 from July 1, 1996, to July 1, 1997.

§10A-2-5-210. Rehabilitation plan - Annual review hearing - Transfer to Department of Corrections - Time-served credits.

A. Whenever a youthful offender is placed in the custody of or under the supervision of the Office of Juvenile Affairs, the Office shall within thirty (30) days prepare and file with the court a written rehabilitation plan for the youthful offender. The rehabilitation plan shall be tailored to the needs and goals of the youthful offender while ensuring protection of the public while the offender is in the custody or supervision of the Office of Juvenile Affairs. The rehabilitation plan shall include, but not be limited to:

1. Clearly stated and measurable objectives which the youthful offender is expected to achieve; and

2. Identification of the specific services and programs that will be provided to the youthful offender by the Office of Juvenile Affairs to assist the youthful offender in achieving the measurable objectives to be reached, including, but not limited to, diagnostic testing consistent with the current standards of medical practice.

B. The court shall schedule an annual review hearing in open court for every youthful offender in the custody of the Office of Juvenile Affairs. Such hearing may be scheduled either upon the court's own motion or upon a motion filed by the Office of Juvenile Affairs. Each annual review hearing shall be scheduled and completed within the thirty-day period immediately preceding the date the sentence was imposed upon the youthful offender. Notice shall be given to the youthful offender, the counsel, parent or guardian of the youthful offender, the district attorney, and the Office of Juvenile Affairs at the time the motion for review is made or filed. The court, at its discretion, may schedule other review hearings as the court deems necessary, after notice to the parties. The court shall hold a review hearing for good cause shown, upon any motion filed by the district attorney, the Office of Juvenile Affairs, or the youthful offender for the purpose of making a determination to:

1. Order the youthful offender discharged from the custody of the Office of Juvenile Affairs without a court judgment of guilt, and order the verdict or plea of guilty or plea of nolo contendere

expunged from the record as provided in paragraphs 1 through 5 of subsection C of Section 991c of Title 22 of the Oklahoma Statutes and dismiss the charge with prejudice to any further action, if the court finds that the youthful offender has reasonably completed the rehabilitation plan and objectives and that such dismissal will not jeopardize public safety.

If a youthful offender has been discharged without a court judgment of guilt and the charge has been dismissed with prejudice as provided in this paragraph, upon the motion of the youthful offender and the passage of three (3) years after the date of such discharge and dismissal, the court may, in addition, order any law enforcement agency over which the court has jurisdiction to expunge all files and records pertaining to the arrest and conviction of the youthful offender, and shall order the clerk of the court to expunge the entire file and record of the case, including docket sheets, index entries, court records, summonses, warrants or records in the office of the clerk or which have been produced by a law enforcement agency in which the name of the youthful offender is mentioned. The court may order probation officers and counselors of the Office of Juvenile Affairs to expunge all records, reports, and social and clinical studies relating to the youthful offender that are in the possession of the Office of Juvenile Affairs, except when the documents are necessary to maintain state or federal funding.

Members of the judiciary, district attorneys, the youthful offender, counsel for the youthful offender, employees of juvenile bureaus and the Office of Juvenile Affairs who are assigned juvenile court intake responsibilities, and the Department of Corrections may access records that have been expunged pursuant to this subsection without a court order for the purpose of determining whether to dismiss an action, seek a voluntary probation, file a petition or information, or for purposes of sentencing or placement in a case where the person who is the subject of the sealed record is alleged to have committed a subsequent youthful offender act, a juvenile delinquent act, or any adult criminal offense. Provided, any record sealed pursuant to this section shall be ordered unsealed upon application of the prosecuting agency when said records are requested for use in any subsequent juvenile delinquent, youthful offender, or adult prosecution.

As used in this paragraph, "expunge" shall mean the sealing of criminal records;

2. Revoke an order of probation and place the youthful offender in the custody of the Office of Juvenile Affairs if such offender is less than eighteen (18) years of age;

3. Place the youthful offender on probation under the supervision of the age-appropriate agency;

4. Place the youthful offender if less than eighteen (18) years of age in a sanction program operated or contracted for by the Office

of Juvenile Affairs community placement, if the youthful offender fails to comply with a written plan of rehabilitation or fails substantially to achieve reasonable treatment objectives while in community or other nonsecure programs; or

5. Transfer the youthful offender to the custody or supervision of the Department of Corrections if the court finds by clear and convincing evidence that the youthful offender has:

- a. after certification as a youthful offender, seriously injured or endangered the life or health of another person by such person's violent behavior,
- b. escaped from the facility from which the youthful offender is being held,
- c. committed a felony crime while in the custody or under the supervision of the Office of Juvenile Affairs as shown by a judgment entered following a verdict of guilty, a plea of guilty or nolo contendere, or as shown by clear and convincing evidence,
- d. committed battery or assault and battery on a state employee or contractor of a juvenile facility while in the custody of such facility,
- e. caused disruption in the facility, smuggled contraband into the facility, caused contraband to be smuggled into the facility, or engaged in other types of behavior which have endangered the life or health of other residents or staff of the facility, or
- f. established a pattern of disruptive behavior not conducive to the established policies and procedures of the program.

The court, in its decision to transfer custody of the youthful offender to the custody of the Department of Corrections, shall detail findings of fact and conclusions of law addressing the grounds alleged in the motion of the state.

C. An order transferring custody of a youthful offender to the Department of Corrections shall be deemed an adult conviction and shall be recorded as such in the court records and criminal history records of the offender. Such order shall be a final order, appealable when entered. In addition to a judgment and sentence for an adult conviction, the court shall provide to the Department of Corrections a detailed memorandum or historical statement of the Youthful Offender Act as applied to the offender being transferred to the Department of Corrections, including the date of the offense, the date of the adjudication as a youthful offender, the date of the filing of the motion to transfer custody of the offender to the adult criminal system, and the date of the imposition of the adult sentence.

D. The court shall grant time-served credits against the adult sentence imposed for any youthful offender transferred to the

Department of Corrections. For the purpose of calculating time served to be applied toward any sentence imposed upon a youthful offender, in the event a youthful offender has been placed in the custody or under the supervision of the Office of Juvenile Affairs, the offender shall receive day-for-day credit for the time spent in the custody or under the supervision of the Office of Juvenile Affairs. Upon commitment to the Department of Corrections, a youthful offender shall also receive other credits as provided by law for an adult inmate.

E. If authorized by the court, review hearings, other than those scheduled for determinations as provided in paragraphs 1 through 5 of subsection B of this section, may be conducted via teleconference communications; provided, the attorney representing the youthful offender shall be present at the hearing. For purposes of this subsection, "teleconference communication" means participation by the youthful offender and facility staff in the hearing by interactive telecommunication devices which permit both visual and auditory communication among the necessary participants, the court, and the youthful offender.

Added by Laws 1994, c. 290, § 27, eff. July 1, 1996. Amended by Laws 1995, c. 352, § 173, eff. July 1, 1997. Renumbered from § 1507.24 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1997, c. 293, § 31, eff. July 1, 1997; Laws 1998, c. 268, § 12, eff. July 1, 1998; Laws 2000, c. 177, § 10, eff. July 1, 2000; Laws 2000, c. 373, § 8, eff. July 1, 2000; Laws 2001, c. 357, § 4, eff. July 1, 2001; Laws 2006, c. 286, § 8, eff. July 1, 2006; Laws 2007, c. 191, § 1, emerg. eff. May 31, 2007; Laws 2008, c. 277, § 4, emerg. eff. June 2, 2008; Laws 2009, c. 234, § 88, emerg. eff. May 21, 2009. Renumbered from § 7306-2.10 of Title 10 by Laws 2009, c. 234, § 188, emerg. eff. May 21, 2009. Amended by Laws 2012, c. 183, § 1, eff. Nov. 1, 2012.

NOTE: Laws 2006, c. 239, § 1 repealed by Laws 2007, c. 1, § 13, emerg. eff. Feb. 22, 2007.

NOTE: Laws 1996, c. 247, § 48 amended the effective date of Laws 1995, c. 352, § 173 from July 1, 1996, to July 1, 1997.

§10A-2-5-211. Commitment to Department of Corrections - Judgment and sentence.

When committing a person who is, or has been, certified as a youthful offender and is certified eligible for the imposition as an adult sentence pursuant to Section 2-5-208 of this title, or certified as a youthful offender and is being transferred to the Department of Corrections for custody or supervision pursuant to Section 2-5-210 of this title, or sentenced as an adult after previously being certified as a youthful offender, the judgment and sentence shall clearly identify such person as a youthful offender, or previous youthful offender, and detail the history of the

applications of the Youthful Offender Act to such person that resulted in the current commitment to the Department of Corrections. Added by Laws 2006, c. 144, § 1, emerg. eff. May 10, 2006. Amended by Laws 2008, c. 277, § 5, emerg. eff. June 2, 2008; Laws 2009, c. 234, § 89, emerg. eff. May 21, 2009. Renumbered from § 7306-2.10a of Title 10 by Laws 2009, c. 234, § 188, emerg. eff. May 21, 2009.

§10A-2-5-212. Delinquent or youthful offender in custody of Office of Juvenile Affairs - Placement options - Office duties and authority - Rights of delinquent or youthful offender.

A. Whenever a youthful offender is committed to the custody of the Office of Juvenile Affairs, the Office of Juvenile Affairs may:

1. Place the youthful offender in a secure facility or other institution or facility maintained by the state for delinquents or youthful offenders;
2. Place the youthful offender in a group home or community residential facility for delinquents or youthful offenders;
3. Place the youthful offender under community supervision prior to or after a period of placement in one or more of the facilities referred to in paragraphs 1 and 2 of this subsection. The Office of Juvenile Affairs may place a youthful offender in his or her own home, or an independent living or other similar living arrangement within the community of the residence of the youthful offender only upon the approval of the court; provided, the court shall not prohibit the reintegration of the youthful offender into the community except upon finding that the youthful offender has not reasonably completed the rehabilitation plan objectives established as preconditions for reintegration into the community or that the public would not be adequately protected if the youthful offender is reintegrated into the community; or
4. Place the youthful offender in a sanction program if the youthful offender fails to comply with a written plan of rehabilitation or fails substantially to achieve reasonable treatment objectives while in community or other nonsecure programs.

B. Placement of the youthful offender pursuant to this section or any other provision of law shall be the responsibility of the Office of Juvenile Affairs and shall occur as soon as reasonably possible but not more than forty-five (45) days following the filing and adoption of the written rehabilitation plan as provided in Section 2-5-210 of this title. This placement time period may be extended upon the declaration of an emergency by the Board of Juvenile Affairs. For the purposes of this section, "emergency" means any situation that places the health, safety and well-being of the residents or staff in imminent peril. The court shall not have authority to require specific placement of a youthful offender in a time frame which would require the removal of any other juvenile or youthful offender from such placement.

C. The Office of Juvenile Affairs shall be responsible for the care and control of a youthful offender placed in the custody of the Office of Juvenile Affairs, and shall have the duty and the authority to provide food, clothing, shelter, ordinary medical care, education, discipline and in an emergency to authorize surgery or other extraordinary care. The medical care, surgery and extraordinary care shall be charged to the appropriate agency where the youthful offender qualifies for the care under law, rule, regulation or administrative order or decision. Nothing in this section shall abrogate the right of a youthful offender to any benefits provided through public funds nor the parent's statutory duty or responsibility to provide said necessities; further, no person, agency or institution shall be liable in a civil suit for damages for authorizing or not authorizing surgery or extraordinary care in an emergency, as determined by competent medical authority. A youthful offender placed in the custody of the Office of Juvenile Affairs who has attained eighteen (18) years of age or older may authorize and consent to the medical care sought on behalf of the youthful offender by the Office of Juvenile Affairs and to be provided to the youthful offender by a qualified health care professional. No state employee shall be liable for the costs of any medical care or behavioral health services provided to any child in the custody of the Office of Juvenile Affairs.

D. A youthful offender in the custody of the Office of Juvenile Affairs shall:

1. Be entitled to the rights afforded juvenile delinquents pertaining to any due process afforded delinquents in regard to movement from a nonsecure to a secure placement; and

2. As appropriate to the age and circumstances of the youthful offender, be provided education, employment, and employment skills and vocational and technical or higher education services, apprenticeship programs and similar opportunities.

E. The Office of Juvenile Affairs shall have standing to seek review, including appellate review, of any order directing the Office of Juvenile Affairs to take any action with regard to a youthful offender placed in the custody or under the supervision of the Office of Juvenile Affairs.

Added by Laws 1994, c. 290, § 28, eff. July 1, 1996. Amended by Laws 1995, c. 352, § 174, eff. July 1, 1997. Renumbered from § 1507.25 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1997, c. 293, § 32, eff. July 1, 1997; Laws 2000, c. 177, § 11, eff. July 1, 2000; Laws 2006, c. 286, § 9, eff. July 1, 2006; Laws 2008, c. 277, § 6, emerg. eff. June 2, 2008; Laws 2009, c. 234, § 90, emerg. eff. May 21, 2009. Renumbered from § 7306-2.11 of Title 10 by Laws 2009, c. 234, § 188, emerg. eff. May 21, 2009. Amended by Laws 2014, c. 362, § 5, emerg. eff. May 28, 2014.

NOTE: Laws 1996, c. 247, § 48 amended the effective date of Laws 1995, c. 352, § 174 from July 1, 1996, to July 1, 1997.

§10A-2-5-213. Pardon by Governor – Motion to set aside conviction – Release from penalties, destruction of records.

A. Upon the motion of a person who has been convicted and sentenced as a youthful offender and who has been subsequently transferred to the adult system pursuant to Section 2-5-210 of this title, with the recommendation of the sentencing court, the Governor may grant a full and complete pardon and restore citizenship to any person who has been convicted and sentenced as a youthful offender and who has completed the sentence or been discharged from parole.

B. Upon the motion of a person convicted as a youthful offender, and three (3) years after the expiration of the sentence of the youthful offender, the court may set aside the conviction if:

1. The court has previously found that the person has reasonably complied with the rehabilitation plan and objectives;

2. The person was discharged from supervision by the Office of Juvenile Affairs, or was granted early discharge from such supervision by the court; or

3. The person has completed the sentence imposed as a result of his first conviction as a youthful offender and has no subsequent convictions.

If a conviction is set aside pursuant to this subsection, the youthful offender shall thereafter be released from all penalties and disabilities resulting from the offense for which such person was convicted, including but not limited to, any disqualification for any employment or occupational license, or both, created by any other provision of law. The court may in addition order any law enforcement agency over whom the court has jurisdiction to produce all files and records pertaining to said arrest and conviction of the youthful offender and shall order the clerk of the court to destroy the entire file and record of the case, including docket sheets, index entries, court records, summons, warrants or records in the office of the clerk or which have been produced by a law enforcement agency in which the name of the youthful offender is mentioned. The court may order probation officers and counselors to destroy all records, reports, and social and clinical studies relating to said youthful offender that are in their possession except when said documents are necessary to maintain state or federal funding.

Added by Laws 1994, c. 290, § 29, eff. July 1, 1996. Amended by Laws 1995, c. 352, § 175, eff. July 1, 1997. Renumbered from § 1507.26 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 2000, c. 373, § 9, eff. July 1, 2000; Laws 2006, c. 286, § 10, eff. July 1, 2006; Laws 2009, c. 234, § 91, emerg. eff. May 21, 2009. Renumbered from § 7306-2.12 of Title 10 by Laws 2009, c. 234, § 188, emerg. eff. May 21, 2009.

NOTE: Laws 1996, c. 247, § 48 amended the effective date of Laws 1995, c. 352, § 175 from July 1, 1996, to July 1, 1997.

§10A-2-5-301. Educational needs during confinement or incarceration.

Any child under eighteen (18) years of age who is a legal resident or the child of legal residents of the State of Oklahoma who is detained, held or arrested for any offense pursuant to any provision of the Juvenile Code or Criminal Code of this state, including such persons subject to adult prosecution, youthful offender proceedings, certification as an adult, reverse certification or juvenile proceedings, shall be identified within seventy-two (72) hours of such detention or arrest for educational needs and shall be afforded such educational opportunities by the State Department of Education without delay while in such facility or jail, including city, county and state jails, holding facilities and juvenile or correctional institutions.

Added by Laws 2006, c. 286, § 11, eff. July 1, 2006. Renumbered from § 7306-3.1 of Title 10 by Laws 2009, c. 234, § 189, emerg. eff. May 21, 2009.

§10A-2-6-101. Court to keep records - Definitions.

A. The court shall make and keep records of all cases brought before the court pursuant to the Oklahoma Juvenile Code. The court shall devise and cause to be printed such forms for social and legal records and such other papers as may be required.

B. As used in the Oklahoma Juvenile Code:

1. "Records" or "record" shall include but not be limited to written or printed documents, papers, logs, reports, files, case notes, films, photographs, psychological evaluations, certification studies, presentence investigations, audio or visual tape recordings pertaining to a juvenile proceeding or a child, and shall include information entered into and maintained in an automated or computerized information system;

2. "Juvenile court record" means legal and social records other than adoption records, including but not limited to agency, law enforcement and district attorney's records, filed with the court that are related to a child who is the subject of a court proceeding pursuant to the Oklahoma Juvenile Code;

3. "Agency record" means records prepared, obtained or maintained by a public or private agency with regard to a child who is or has been under its care, custody or supervision or with regard to a family member or other person living in the home of such child and shall include but not be limited to:

a. any study, plan, recommendation, assessment or report made or authorized to be made by such agency for the purpose of determining or describing the history,

diagnosis, custody, condition, care or treatment of such child, or

- b. any records made in the course of any investigation or inquiry conducted by an agency to determine whether a child is a delinquent child or a child in need of supervision;

4. "District attorney's records" means any records prepared or obtained by an office of a district attorney relating to a juvenile case and any records prepared or obtained for the prosecution of crimes against children that constitute a legal or social record of a child;

5. "Law enforcement records" means any contact, incident or similar reports, arrest records, disposition records, detention records, fingerprints, or photographs related to a child and shall include but not be limited to reports of investigations or inquiries conducted by a law enforcement agency to determine whether a child is or may be subject to the provisions of this chapter as a delinquent child or a child in need of supervision. Law enforcement records pertaining to juveniles shall be maintained separately from records pertaining to adults;

6. "Nondirectory education records" means any records maintained by a public or private school, including a technology center school, regarding a child who is or has been a student at the school which are categorized as private or confidential records pursuant to the federal Family Educational Rights and Privacy Act of 1974 and any rules promulgated pursuant to the act;

7. "Legal record" means any petition, docket, motion, finding, order, judgment, pleading, certification study, paper or other document, other than social records, filed with the court;

8. "Social record" means family social histories, medical reports, psychological and psychiatric evaluations or assessments, clinical or other treatment reports, educational records, or home studies, even if attached to court reports prepared by the agency; and

9. "Participating agency" means any public or private agency that has entered into a contract or an interagency agreement under the Interlocal Cooperation Act in accordance with the rules and guidelines adopted pursuant to Section 620.6 of Title 10 of the Oklahoma Statutes or the Juvenile Offender Tracking Program for the purpose of accessing and sharing information necessary for the care, treatment, and supervision of children and youth.

Added by Laws 1995, c. 352, § 177, eff. July 1, 1995. Amended by Laws 1996, c. 211, § 1, eff. Nov. 1, 1996; Laws 2001, c. 33, § 12, eff. July 1, 2001; Laws 2009, c. 234, § 93, emerg. eff. May 21, 2009. Renumbered from § 7307-1.1 of Title 10 by Laws 2009, c. 234, § 190, emerg. eff. May 21, 2009. Amended by Laws 2013, c. 404, § 18, eff. Nov. 1, 2013.

§10A-2-6-102. Confidential juvenile records.

A. Except as provided by this section or as otherwise specifically provided by state or federal laws, the following juvenile records are confidential and shall not be open to the general public, inspected, or their contents disclosed:

1. Juvenile court records;
2. Agency records;
3. District attorney's records;
4. Law enforcement records;
5. Nondirectory education records; and
6. Social records.

B. The confidentiality limitation of subsection A of this section shall not apply to statistical information or information of a general nature obtained pursuant to the provisions of the Oklahoma Juvenile Code.

C. The confidentiality requirements of subsection A of this section for juvenile court records and law enforcement records shall not apply:

1. Upon the charging or certification of a juvenile as an adult or youthful offender;
2. Upon the charging of an individual pursuant to Section 2-5-101 of this title;
3. To a violation of any traffic regulation or motor vehicle regulation of Title 47 of the Oklahoma Statutes, or to a violation of any city ordinance or county resolution which relates to the regulation of traffic on the roads, highways or streets, or to the operation of self-propelled or nonself-propelled vehicles of any kind in this state;
4. To a juvenile who is fourteen (14) years of age or older and who has been adjudicated delinquent and who subsequently comes before the juvenile court on a new delinquency matter after July 1, 1995;
5. To a juvenile adjudicated a delinquent for committing a delinquent act which, if committed by an adult, would be a felony offense that is a crime against the person or a felony offense involving a dangerous weapon;
6. To arrest records of a juvenile arrested for committing an act, which if committed by an adult, would be a felony offense;
7. To a violation of the Prevention of Youth Access to Tobacco Act; or
8. Whenever a juvenile is accepted for placement or treatment in a facility or private treatment facility within this state as a result of or following a conviction or adjudication for an out-of-state offense that would qualify the juvenile as a youthful offender, as defined in Section 2-5-202 of this title, had the crime occurred within this state. The facility shall provide any law enforcement agency or peace officer all prior criminal offense, conviction, and

adjudication information. If a juvenile flees or is otherwise absent from the facility without permission, the facility shall provide any law enforcement agency or peace officer all prior criminal offense, conviction, and adjudication information. Any law enforcement agency or peace officer shall have the authority to review or copy any records concerning the juvenile, including prior criminal offense, conviction, or adjudication information.

D. Following the first adjudication as a delinquent, the court having jurisdiction shall note on the juvenile court record of the person that any subsequent juvenile court records shall not be confidential; provided, the child is at least fourteen (14) years of age or older. Any juvenile court record which becomes an open juvenile record as provided in this subsection may be expunged as provided in Section 2-6-109 of this title.

The provisions of this subsection shall only apply to the juvenile court records and law enforcement records of juvenile offenders certified, charged or adjudicated on and after July 1, 1995.

E. When a delinquent child has escaped or run away from a secure facility or other institutional placement for delinquents, the name and description of the child may be released to the public by the agency having custody of the child as necessary and appropriate for the protection of the public and the apprehension of the delinquent child whether or not the juvenile record is confidential or open.

F. Except as otherwise required by state or federal law, the confidential records listed in subsection A of this section may only be inspected, released, disclosed, corrected or expunged pursuant to an order of the court. Except as otherwise provided in Section 601.6 of Title 10 of the Oklahoma Statutes or any provision of this chapter, no subpoena or subpoena duces tecum purporting to compel disclosure of confidential information or any confidential juvenile record shall be valid.

G. An order of the court authorizing the inspection, release, disclosure, correction or expungement of confidential records shall be entered by the court only after a review of the records by the court and a determination by the court, with due regard for the confidentiality of the records and the privacy of persons identified in the records, that a compelling reason exists and such inspection, release or disclosure is necessary for the protection of a legitimate public or private interest.

Except for district attorney records, any court order authorizing the disclosure, release or inspection of a confidential juvenile record may be conditioned on such terms and restrictions as the court deems necessary and appropriate.

H. Upon receiving a written request for inspection, release, disclosure, or correction of a juvenile record, the court shall determine whether the record of a juvenile falls under one of the

exceptions listed in subsection C of this section. If the record falls under one of the exceptions in subsection C of this section, the court shall issue an order authorizing inspection, release, disclosure or correction of the juvenile record. If the release of a juvenile record is authorized by the court, the Office of Juvenile Affairs shall provide information to the requestor regarding the location of the juvenile record to be released.

I. Any agency or person may seek an order from the juvenile court prohibiting the release of confidential information subject to disclosure without an order of the court pursuant to Section 620.6 of Title 10 of the Oklahoma Statutes or any provision of this chapter. The court may, for good cause shown, prohibit the release of such information or authorize release of the information upon such conditions as the court deems necessary and appropriate.

J. In accordance with the provisions of the Juvenile Offender Tracking Program and Section 620.6 of Title 10 of the Oklahoma Statutes:

1. Information included in the records listed in subsection A of this section may be entered in and maintained in the Juvenile Justice Information System and other automated information systems related to services to children and youth whether or not the record is confidential or open; and

2. The information systems may be accessed by participating agencies as defined by this chapter or as otherwise provided by law.

K. The court may authorize a designated person to review juvenile court confidential reports and records and collect statistical information and other abstract information for research purposes. Such authorization shall be in writing and shall state specifically the type of information which may be reviewed and reported.

Each person granted permission to inspect confidential reports and records for research purposes shall present a notarized statement to the court stating that the names of juveniles, parents and other persons as may be required by the court to be confidential will remain confidential.

L. Nothing contained in the provisions of Section 620.6 of Title 10 of the Oklahoma Statutes or any provision of this chapter shall be construed as:

1. Authorizing the inspection of records or the disclosure of information contained in records relating to the provision of benefits or services funded, in whole or in part, with federal funds, except in accord with federal statutes and regulations governing the receipt or use of such funds;

2. Authorizing the disclosure of information required to be kept confidential by Section 7505-1.1, 7506-1.1 or 7510-1.5 of Title 10 of the Oklahoma Statutes, the Oklahoma Adoption Code or disclosure of

any other confidential record pursuant to the provisions of this chapter;

3. Abrogating any privilege, including the attorney-client privilege, or affecting any limitation on such privilege found in any other statutes;

4. Limiting or otherwise affecting access of parties to a juvenile proceeding to any records filed with or submitted to the court;

5. Limiting or otherwise affecting access of agencies to information subject to disclosure, review or inspection by contract or as a condition for the receipt of public funds or participation in any program administered by the agency;

6. Prohibiting the Office of Juvenile Affairs from summarizing the outcome of an investigation to the person who reported a known or suspected instance of child abuse or neglect; or

7. Prohibiting the person or agency conducting a preliminary inquiry relating to an alleged delinquent act from providing information, as to the disposition of the matter by the district attorney, to the person or agency which referred the matter, including but not limited to whether a petition was filed or an alternative action taken, and the basis for such action and the terms of any agreement entered into by the child for payment of restitution, and including but not limited to provisions for community services.

M. The confidential records listed in subsection A of this section may be inspected and their contents disclosed without a court order to the Oklahoma School for the Blind, Oklahoma School for the Deaf, or a school district in which the child who is the subject of the record is currently enrolled or has been presented for enrollment. The inspection of records and disclosure authorized by this subsection may be limited to summaries or to information directly necessary for the purpose of such inspection or disclosure. Upon request by the Oklahoma School for the Blind, Oklahoma School for the Deaf, or a school district, the agency in possession of the records shall provide in writing, digitally, or by delivery to a secure facsimile line, the requested information to the school district within five (5) business days upon receipt of the request. Any records disclosed as provided by this subsection shall remain confidential. The use of any information shall be limited to the purposes for which disclosure is authorized.

N. The records of a case for which a petition is not filed shall be subject to the provisions of Chapter 6 of the Oklahoma Juvenile Code.

Added by Laws 1995, c. 352, § 178, eff. July 1, 1995. Amended by Laws 1996, c. 211, § 4, eff. Nov. 1, 1996; Laws 1997, c. 350, § 7, eff. July 1, 1997; Laws 1998, c. 54, § 1, eff. Nov. 1, 1998; Laws 1998, c. 415, § 3, emerg. eff. June 11, 1998; Laws 1999, c. 1, § 7,

emerg. eff. Feb. 24, 1999; Laws 2002, c. 132, § 1, eff. Nov. 1, 2002; Laws 2004, c. 86, § 1, eff. Nov. 1, 2004; Laws 2008, c. 324, § 2, eff. July 1, 2008; Laws 2009, c. 234, § 94, emerg. eff. May 21, 2009. Renumbered from § 7307-1.2 of Title 10 by Laws 2009, c. 234, § 190, emerg. eff. May 21, 2009. Amended by Laws 2014, c. 278, § 2, eff. July 1, 2014; Laws 2015, c. 54, § 5, emerg. eff. April 10, 2015. NOTE: Laws 1998, c. 322, § 2 repealed by Laws 1999, c. 1, § 45, emerg. eff. Feb. 24, 1999. Laws 2014, c. 362, § 6 repealed by Laws 2015, c. 54, § 6, emerg. eff. April 10, 2015.

§10A-2-6-103. Confidentiality of social records.

A. 1. Social records, as defined by Section 93 of this act, shall not be filed in the court record unless so ordered by the court. If filed in the court record, the records shall be placed in confidential envelopes in the court file and may only be accessed by the person who is the subject of the record, or the attorney for such person.

2. The person or the attorney for the person may obtain a copy of any social record used during the pendency of the delinquent proceedings that has been distributed to any of the parties during the proceedings.

B. Nothing in this section shall prohibit the disclosure of confidential records as permitted by the provisions of Chapter 6 of this Code or any other applicable law.

Added by Laws 2009, c. 234, § 109, emerg. eff. May 21, 2009.

§10A-2-6-104. Inspection and disclosure of confidential records without court order.

A. In accordance with the Juvenile Offender Tracking Program and Section 620.6 of Title 10 of the Oklahoma Statutes, the confidential records listed in subsection A of Section 2-6-102 of this title may be inspected and their contents disclosed without a court order to:

1. Participating agencies;

2. The following, provided that the inspection of records and disclosure authorized by this paragraph may be limited to summaries or to information directly necessary for the purpose of such inspection or disclosure:

- a. pursuant to the provisions of this title, a person, agency, hospital or clinic authorized or directed by the court or by the Office of Juvenile Affairs to care for, treat, examine, evaluate or supervise a child or to treat, examine or evaluate the parent, legal guardian or other adult person living in the home of the child,
- b. a legally recognized school that is not a participating agency in which the child who is the subject of the record is currently enrolled, and

- c. individuals or agencies engaged in legitimate research for educational, scientific or public purposes or for the purpose of an audit authorized by law. No information identifying the subjects of the records shall be made available or disclosed unless it is essential to the research or audit purpose.

B. Records and their contents disclosed without an order of the court as provided by this section shall remain confidential. The use of any information shall be limited to the purposes for which disclosure is authorized. It shall be unlawful for any person to furnish any confidential record or disclose any confidential information contained in any juvenile record for commercial, political or any other unauthorized purpose. Any person violating the provisions of this subsection shall, upon conviction, be guilty of a misdemeanor.

Added by Laws 1995, c. 352, § 179, eff. July 1, 1995. Amended by Laws 1996, c. 211, § 5, eff. Nov. 1, 1996; Laws 2009, c. 234, § 95, emerg. eff. May 21, 2009. Renumbered from § 7307-1.3 of Title 10 by Laws 2009, c. 234, § 190, emerg. eff. May 21, 2009.

§10A-2-6-105. Inspection and disclosure of juvenile court records without court order.

A. Juvenile court records which are confidential may be inspected, and their contents shall be disclosed, without a court order to the following persons upon showing of proper credentials and pursuant to lawful duties:

1. The judge having the child currently before the court in any proceeding pursuant to the Oklahoma Juvenile Code, or any judge of the district court or tribal court to which such proceedings may be transferred;

2. Employees and officers of the court in the performance of their duties, including but not limited to guardians ad litem appointed by the court;

3. Members of review boards established pursuant to Sections 1116.2 and 1116.6 of Title 10 of the Oklahoma Statutes. In addition to juvenile court records, any member of such review boards may inspect, without a court order, information including but not limited to:

- a. psychological and medical records,
- b. placement history and information, including the names and addresses of foster parents,
- c. family assessments,
- d. treatment or service plans, and
- e. school records;

4. A district attorney and the employees of an office of a district attorney in the course of their official duties;

5. The attorney representing a child who is the subject of a juvenile proceeding pursuant to the provisions of this chapter. The attorney representing a child or considering representing a child in a juvenile proceeding may also access other records listed in subsection A of Section 2-6-102 of this title for use in the legal representation of the child;

6. Employees of juvenile bureaus in the course of their official duties;

7. Employees of the Office of Juvenile Affairs in the course of their official duties;

8. Employees of a law enforcement agency in the course of their official duties pertaining to the investigation of a crime committed or alleged to have been committed by a person under eighteen (18) years of age. Records or information disclosed pursuant to this paragraph may consist of summaries or may be limited to the information or records necessary for the purpose of the investigation;

9. The Oklahoma Commission on Children and Youth;

10. The Office of Juvenile Affairs or other public or private agency or any individual having court-ordered custody or custody pursuant to Office of Juvenile Affairs placement of the child who is the subject of the record;

11. The Department of Human Services;

12. The child who is the subject of the record and the parents, legal guardian, legal custodian or foster parent of said child;

13. Any federally recognized Indian tribe in which the child who is the subject of the record is a member, or is eligible to become a member of the tribe due to the child being the biological child of a member of an Indian tribe pursuant to the Federal Indian Child Welfare Act, P.L. 95-608, and the Oklahoma Indian Child Welfare Act; provided such Indian tribe member, in the course of official duties:

- a. is investigating a report of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody, or
- b. is providing services to or for the benefit of a child including but not limited to protective, emergency, social and medical services;

14. Any federally recognized Indian tribe in which the tribe, the tribal court or the tribal child welfare program has asserted jurisdiction or intervened in any case in which the child is the subject of the proceedings or is a party to the proceedings pursuant to the authority provided in the Oklahoma Indian Child Welfare Act.

The records that are to be provided to Indian tribes pursuant to the provisions of this subsection shall include all case records, reports and documents as defined in this chapter;

15. The Governor or to any person the Governor designates, in writing;

16. Any federal official of the United States Department of Health and Human Services;

17. Any member of the Legislature, upon the written approval of the Speaker of the House of Representatives or the President Pro Tempore of the Senate;

18. Employees of the Department of Corrections in the course of their official duties;

19. Employees of the United States Probation Office, in the course of their official duties; and

20. Domestic violence and sexual assault advocates employed by a certified domestic violence or sexual assault program pursuant to Section 18p-6 of Title 74 of the Oklahoma Statutes, working within a law enforcement agency or court in the course of their assigned duties.

B. Records and their contents disclosed without an order of the court as provided by the provisions of this section shall remain confidential. The use of any information shall be limited to the purposes for which disclosure is authorized. It shall be unlawful for any person to furnish any confidential record or disclose any confidential information contained in any juvenile record for commercial, political or any other unauthorized purpose. Any person violating the provisions of this section shall, upon conviction, be guilty of a misdemeanor.

Added by Laws 1995, c. 352, § 180, eff. July 1, 1995. Amended by Laws 1996, c. 211, § 6, eff. Nov. 1, 1996; Laws 1997, c. 293, § 33, eff. July 1, 1997; Laws 2000, c. 177, § 12, eff. July 1, 2000; Laws 2005, c. 53, § 2, eff. Nov. 1, 2005; Laws 2007, c. 156, § 2, eff. Nov. 1, 2007; Laws 2009, c. 234, § 96, emerg. eff. May 21, 2009. Renumbered from § 7307-1.4 of Title 10 by Laws 2009, c. 234, § 190, emerg. eff. May 21, 2009.

§10A-2-6-106. Inspection and disclosure of Office of Juvenile Affairs records without court order.

A. The Office of Juvenile Affairs agency records pertaining to a child which are confidential may be inspected and their contents disclosed without a court order to the following persons upon showing of proper credentials:

1. The judge having the child currently before the court in any proceeding pursuant to this title, any judge of the district court or tribal court to which any proceedings may be transferred;

2. Employees and officers of the court in the performance of their duties, including but not limited to guardians ad litem appointed by the court, and members of review boards established pursuant to the Oklahoma Children's Code;

3. A district attorney and the employees of an office of a district attorney in the course of their official duties pursuant to this title or the prosecution of crimes against children, including providing summary dispositional and placement information to the victim of the delinquent acts of the child;

4. The attorney representing a child who is the subject of a juvenile proceeding pursuant to the provisions of this title. The attorney representing a child or an attorney considering representing a child in a juvenile proceeding may access other confidential records listed in subsection A of Section 2-6-102 of this title for use in the legal representation of the child;

5. Employees of juvenile bureaus in the course of their official duties;

6. Employees of a law enforcement agency of this or another state and employees of a child protective service of another state or any federally recognized Indian tribe member in the course of their official duties pertaining to investigations of a report of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody;

7. Employees of a law enforcement agency in the course of their official duties pertaining to the investigation of a crime committed or alleged to have been committed by a person under eighteen (18) years of age. Records or information disclosed pursuant to this paragraph may consist of summaries or may be limited to the information or records necessary for the purpose of the investigation;

8. The Oklahoma Commission on Children and Youth;

9. The Department of Human Services;

10. Any public or private agency or person authorized by the Office of Juvenile Affairs to diagnose, or provide care, treatment, supervision or other services to a child who is the subject of a report or record of delinquency, child abuse or neglect, or other adjudicatory category, provided the Office may limit the disclosure to summaries or to information directly necessary for the purpose of the disclosure;

11. Any federally recognized Indian tribe or state or county child protective services or child welfare agency providing for or supervising the diagnosis, care, treatment, supervision or other services provided such child;

12. The parents of the child who is the subject of any records;

13. The child upon attaining eighteen (18) years of age or upon the termination of court jurisdiction of the case, whichever occurs later;

14. Any person or agency for research purposes, if all of the following conditions are met:

- a. the person or agency conducting the research is employed by the State of Oklahoma or is under contract with this state and is authorized by the Office of Juvenile Affairs to conduct the research, and
- b. the person or agency conducting the research ensures that all documents containing identifying information are maintained in secure locations and access to any documents by unauthorized persons is prohibited; that no identifying information is included in documents generated from the research conducted; and that all identifying information is deleted from documents used in the research when the research is completed;

15. The Governor or to any person the Governor designates, in writing;

16. Any federal official of the United States Department of Health and Human Services, the United States Social Security Administration, the United States Department of Justice, the United States Department of Homeland Security, or any employee of the United States Probation Office;

17. Any member of the Legislature, upon the written approval of the Speaker of the House of Representatives or the President Pro Tempore of the Senate;

18. Employees of the Department of Corrections in the course of their official duties; and

19. Employees of the Department of Mental Health and Substance Abuse Services in the course of their official duties.

B. Records and their contents disclosed without an order of the court as provided by the provisions of this section shall remain confidential. The use of any information shall be limited to the purposes for which disclosure is authorized. It shall be unlawful for any person to furnish any confidential record or disclose any confidential information contained in any juvenile record for commercial, political or any other unauthorized purpose. Any person violating the provisions of this section shall, upon conviction, be guilty of a misdemeanor.

Added by Laws 1995, c. 352, § 181, eff. July 1, 1995. Amended by Laws 1996, c. 211, § 7, eff. Nov. 1, 1996; Laws 1997, c. 293, § 34, eff. July 1, 1997; Laws 2000, c. 177, § 13, eff. July 1, 2000; Laws 2007, c. 191, § 2, emerg. eff. May 31, 2007; Laws 2009, c. 234, § 97, emerg. eff. May 21, 2009. Renumbered from § 7307-1.5 of Title 10 by Laws 2009, c. 234, § 190, emerg. eff. May 21, 2009. Amended by Laws 2014, c. 362, § 2, emerg. eff. May 28, 2014; Laws 2015, c. 54, § 7, emerg. eff. April 10, 2015.

NOTE: Laws 2007, c. 176, § 3 repealed by Laws 2008, c. 3, § 7, emerg. eff. Feb. 28, 2008. Laws 2014, c. 197, § 1 repealed by Laws 2015, c. 54, § 8, emerg. eff. April 10, 2015.

§10A-2-6-107. Fingerprinting of persons under 18.

The fingerprinting of persons under eighteen (18) years of age shall be as prescribed by law for the fingerprinting of adults, except as specified by the provisions of this section.

1. When a child is detained or arrested in the course of an investigation of a criminal offense and:

a. a comparison of the fingerprints of the child with fingerprints found during the investigation of the offense is negative, or

b. a court finds that the child did not commit the alleged offense,

all law enforcement records of the arrest and, if applicable, juvenile court and agency records shall be amended to reflect said facts immediately after the comparison or court finding;

2. Fingerprints obtained pursuant to this section shall be retained in a central state depository and in a local depository maintained by a duly constituted law enforcement agency;

3. Fingerprints obtained and maintained pursuant to this section may be used only by law enforcement officers for comparison purposes in connection with the investigation of a crime or to establish identity in instances of death, serious illness, runaways, or emergency; and

4. If a child is reported to a law enforcement agency as a missing child or a custodial parent, legal guardian or legal custodian of a child requests the issuance of a fingerprint card pursuant to the provisions of the Oklahoma Minor Identification Act, the provisions of the Oklahoma Minor Identification Act shall apply. With the voluntary and informed consent of the parent, legal guardian or legal custodian of the child, fingerprints obtained and maintained pursuant to the Oklahoma Minor Identification Act may be used by law enforcement officers as provided by paragraph 3 of this section.

Added by Laws 1991, c. 296, § 12, eff. Jan. 1, 1992. Amended by Laws 1995, c. 352, § 182, eff. July 1, 1995. Renumbered from § 1125.3 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1996, c. 211, § 2, eff. Nov. 1, 1996. Renumbered from § 7307-1.6 of Title 10 by Laws 2009, c. 234, § 190, emerg. eff. May 21, 2009.

§10A-2-6-108. Effect of adjudication - Sealing of records - Order unsealing sealed records - Destruction of records.

A. No adjudication by the court upon the status of a child in a juvenile proceeding shall operate to impose any of the civil disabilities ordinarily resulting from conviction of a crime, nor shall a child be deemed a criminal by reason of a juvenile adjudication.

B. The court may sua sponte, upon motion by the state or upon motion by the alleged delinquent, order the records of a person alleged to be delinquent to be sealed as follows:

1. When the person has been alleged to be delinquent and:
  - a. one (1) year has elapsed from the later of:
    - (1) dismissal or closure of the case by the court, or
    - (2) notice to the court by the Office of Juvenile Affairs or a juvenile bureau of final discharge of such person from the supervision of the Office of Juvenile Affairs or juvenile bureau, and
  - b. the person has not been found guilty of or admitted to the commission of a subsequent criminal offense in either a juvenile or adult proceeding, and
  - c. no juvenile or adult proceeding for a criminal offense is pending;
2. When a juvenile court intake has been completed and:
  - a. the case has been dismissed, or
  - b. no petition has been filed pending fulfillment of conditions of a voluntary probation, or
  - c. a petition has been filed but no adjudication has occurred pending the fulfillment of conditions of a preadjudicatory probation;
3. When a juvenile participates in a court-approved alternative diversion program for first-time offenders and:
  - a. the juvenile presents satisfactory evidence to the court that the juvenile has successfully completed the program, and
  - b. the court dismisses the case at the conclusion of the deferral period; or
4. When a juvenile participates in a court-approved military mentor program and:
  - a. the juvenile presents satisfactory evidence to the court that the juvenile has successfully completed the program, and
  - b. the court dismisses the case at the conclusion of the deferral period.

The records may be sealed one (1) year after such dismissal or completion of the conditions of a voluntary or preadjudicatory probation, alternative diversion program for first-time offenders, or military mentor program or upon the person attaining the age of eighteen (18) years in the discretion of the court. Upon the sealing of any record of a person alleged to be delinquent pursuant to this title, the record and official actions subject to the order shall be deemed never to have occurred, and the person who is the subject of the record and all juvenile justice agencies may properly reply upon any inquiry in the matter that no such action ever occurred and no such record exists with respect to such person.

C. The Administrative Office of the Courts shall establish on or before January 1, 1994, a system for sealing records as required by subsection B of this section and records shall be sealed in accordance with the procedures established pursuant to said system.

D. 1. The court clerk shall seal the juvenile court record indicated in the court's order, except that a confidential index shall be maintained for the purpose of locating records subject to inspection or release pursuant to subsection F of this section.

2. When notified by the court clerk of a court order sealing a juvenile court record, the law enforcement agency having records pertaining to the person shall seal the records as ordered, except basic identification information shall be maintained.

3. Except where such documents are necessary to maintain state or federal funding, the juvenile court personnel records pertaining to the person shall be sealed.

E. Members of the judiciary, district attorneys, the defendant, the defendant's counsel and employees of juvenile bureaus, the Office of Juvenile Affairs assigned juvenile court intake responsibilities, and the Department of Corrections may access records that have been sealed pursuant to this section without a court order for the purpose of determining whether to dismiss an action, seek a voluntary probation, file a petition, or for purposes of sentencing or placement in a case where the person who is the subject of the sealed record is alleged to have committed a subsequent juvenile delinquent act or any adult criminal offense. Provided, any record sealed pursuant to this section may be used in a subsequent juvenile delinquent or adult prosecution only after the issuance of a court order unsealing the record.

F. The court may issue an order unsealing sealed juvenile court records, for use for the following purposes:

1. In subsequent cases against the same child pursuant to this title;

2. In an adult criminal proceeding pursuant to Section 2-2-403 or 2-5-101 of this title;

3. Upon conviction of a criminal offense in an adult proceeding, in connection with the sentencing of such person;

4. If the person is placed in the custody or under the supervision of the Department of Corrections;

5. In accordance with the guidelines adopted pursuant to the Juvenile Offender Tracking Program and Section 620.6 of Title 10 of the Oklahoma Statutes, for maintaining juvenile justice and criminal justice statistical information;

6. For the purpose of a criminal investigation; or

7. When the court finds that there is a compelling reason and it is in the interest of justice to order the record unsealed.

G. Any person or agency having a legitimate interest in a delinquency case or proceeding may petition the court for an order

unsealing a juvenile court record. Upon the filing of a petition to unseal any juvenile court record, the court shall set a date for a hearing and shall provide thirty (30) days of notice to all interested parties. The hearing may be closed at the discretion of the court. If, after a hearing, the court determines that there is any reason enumerated in subsection F of this section and it is necessary for the protection of a legitimate public or private interest to unseal the record, the court shall order the record unsealed.

H. Any record ordered to be sealed pursuant to this section, if not unsealed within ten (10) years of the order, shall be obliterated or destroyed at the end of the ten-year period.

Added by Laws 1991, c. 296, § 13, eff. Jan. 1, 1992. Amended by Laws 1993, c. 178, § 1, eff. Sept. 1, 1993; Laws 1995, c. 352, § 183, eff. July 1, 1995. Renumbered from § 1125.4 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1996, c. 211, § 3, eff. Nov. 1, 1996; Laws 2009, c. 234, § 98, emerg. eff. May 21, 2009. Renumbered from § 7307-1.7 of Title 10 by Laws 2009, c. 234, § 190, emerg. eff. May 21, 2009. Amended by Laws 2013, c. 404, § 19, eff. Nov. 1, 2013.

§10A-2-6-109. Expungement of open juvenile court record.

A. A person who is the subject of a juvenile court record, that is not confidential as provided by law, may petition the district court in which the juvenile court record is located for an order to expunge all or any part of the record pertaining to the person, except basic identification information; provided:

1. The person has attained twenty-one (21) years of age or older;
2. The person has not been arrested for any adult criminal offense and no charge, indictment, or information has been filed or is pending against the person at the time of the petition for an expungement;
3. The person has not been subject to any deferred prosecution or deferred sentence, and has not been convicted of any criminal offense; and

4. All court costs, restitution, fines and other court-ordered requirements have been completed for all juvenile proceedings.

B. Upon the filing of a petition for expungement of a juvenile court record, the court shall set a date for a hearing, which hearing may be closed at the court's discretion, and shall provide a thirty (30) days' notice of the hearing to the district attorney, the Office of Juvenile Affairs, the Oklahoma State Bureau of Investigation, and any other person or agency whom the court has reason to believe may have relevant information related to the expungement of any record.

C. Upon a finding that the harm to privacy of the person in interest or dangers of unwarranted adverse consequences outweigh the

public interest in retaining the records, the court may order the records, or any part thereof except basic identification information, to be expunged. If the court finds that neither expungement of the records nor maintaining of the records unsealed by the agency would serve the ends of justice, the court may enter an appropriate order limiting access to the records. Any order entered pursuant to the provisions of this subsection shall specify those agencies to which the court order shall apply.

D. Upon the entry of an order to expunge any juvenile court record, or any part thereof, the subject official actions shall be deemed never to have occurred, and the person in interest and all juvenile and criminal justice agencies may properly reply, upon any inquiry in the matter, that no such action ever occurred and that no such record exists with respect to the person.

E. Inspection of the records included in the order may thereafter be permitted by the court only upon petition by the person in interest who is the subject of the records, the Attorney General, or by the district attorney and only to those persons and for such purposes named in the petition.

F. Employers, educational institutions, state and local government agencies, officials, and employees shall not, in any application or interview or otherwise, require an applicant to disclose any information contained in any expunged juvenile records. An applicant need not, in answer to any question concerning arrest, juvenile and criminal records, provide information that has been expunged, including any reference to or information concerning expungement and may state that no such action has ever occurred. Such an application may not be denied solely because of the applicant's refusal to disclose information that has been expunged.

G. Nothing in this section shall be construed to authorize the physical destruction of any juvenile records.

H. For the purposes of this section, expunged materials which are recorded in the same document as unsealed material may be recorded in a separate document, and sealed, then obliterated in the original document.

I. For the purposes of this act, district court index reference of sealed material shall be destroyed, removed or obliterated.

J. Any record ordered to be expunged pursuant to this section shall be sealed and, if not unsealed within ten (10) years of the expungement order, may be obliterated or destroyed at the end of the ten-year period.

K. Subsequent to records being sealed as provided herein, the district attorney, the Office of Juvenile Affairs, the Oklahoma State Bureau of Investigation, or other interested person or agency may petition the court for an order unsealing any records. Upon filing of a petition, the court shall set a date for hearing, which hearing may be closed at the court's discretion, and shall provide thirty

(30) days' notice to all interested parties. If, upon hearing, the court determines there has been a change of conditions or that there is a compelling reason to unseal the records, the court may order all or a portion of the records unsealed.

L. Nothing herein shall prohibit the introduction of evidence regarding actions sealed pursuant to the provisions of this section at any hearing or trial for purposes of impeaching the credibility of a witness or as evidence of character testimony pursuant to Section 2608 of Title 12 of the Oklahoma Statutes.

M. A person who has attained eighteen (18) years of age or older may petition the district or municipal court in which the juvenile court record is located for an order to expunge all or any part of the record pertaining to matters involving truancy provided the person has met the criteria set forth in paragraphs 2 through 4 of subsection A of this section. The petition shall be reviewed by the district or municipal judge with primary responsibility over the juvenile court docket.

Added by Laws 1996, c. 211, § 8, eff. Nov. 1, 1996. Amended by Laws 2003, c. 434, § 13; Laws 2009, c. 234, § 99, emerg. eff. May 21, 2009. Renumbered from § 7307-1.8 of Title 10 by Laws 2009, c. 234, § 190, emerg. eff. May 21, 2009.

§10A-2-6-110. Procedures for providing certain records to sheriffs - Confidentiality.

The Office of Juvenile Affairs shall, in cooperation with sheriffs in this state, develop procedures for providing timely and relevant information to sheriffs concerning juvenile court records and agency records of persons who have met the criteria specified in paragraph 5 of subsection C of Section 2-6-102 of this title. The procedures shall be designed to provide the type of information useful and relevant to establishing security level requirements for persons in the custody of a sheriff. The provisions of this section shall not require the disclosure of any records or information which is required by law to be kept confidential.

Added by Laws 2000, c. 293, § 2, emerg. eff. June 5, 2000. Amended by Laws 2009, c. 234, § 100, emerg. eff. May 21, 2009. Renumbered from § 7307-1.9 of Title 10 by Laws 2009, c. 234, § 190, emerg. eff. May 21, 2009.

§10A-2-7-101. Board of Juvenile Affairs - Members - Duties and responsibilities.

A. There is hereby created the Board of Juvenile Affairs which shall consist of the following nine (9) members:

1. Five members appointed by the Governor;
2. Two members appointed by the Speaker of the House of Representatives; and

3. Two members appointed by the President Pro Tempore of the Senate.

B. 1. Each member shall serve at the pleasure of his or her appointing authority and may be removed or replaced without cause.

2. Any member of the Board shall be prohibited from voting on any issue in which the member has a direct financial interest.

3. The Executive Director of the Office of Juvenile Affairs shall be an ex officio member of the Board, but shall be entitled to vote only in case of a tie vote.

C. To be eligible for appointment to the Board a person shall:

1. Be a citizen of the United States;

2. Be a resident of this state;

3. Be a qualified elector of this state; and

4. Not have been convicted of a felony pursuant to the laws of this state, the laws of any other state, or the laws of the United States.

D. Members appointed pursuant to this paragraph shall include persons having experience in social work, juvenile justice, criminal justice, community-based youth services, criminal-justice-related behavioral sciences, indigent defense, and education. In making the appointments, the Governor shall also give consideration to urban, rural, gender, and minority representation.

E. 1. The Board shall hold meetings as necessary at a place and time to be fixed by the Board. The Board shall elect, at its first meeting, one of its members to serve as chair and another of its members to serve as vice-chair. At the first meeting in each calendar year thereafter, the chair and vice-chair for the ensuing year shall be elected. Special meetings may be called by the chair or by five members of the Board by delivery of written notice to each member of the Board. A majority of members serving on the Board shall constitute a quorum of the Board.

2. Members of the Board shall receive necessary travel expenses according to the provisions of the State Travel Reimbursement Act, but shall receive no other compensation. Travel expenses shall be paid from funds available to the Office of Juvenile Affairs.

F. The Board shall:

1. Adopt and promulgate rules for its government and may adopt an official seal for the Office of Juvenile Affairs;

2. Be the rulemaking body for the Office of Juvenile Affairs;

3. Review and approve the budget request of the Office of Juvenile Affairs to the Governor;

4. Assist the Office of Juvenile Affairs in conducting periodic reviews and planning activities related to the goals, objectives, priorities, and policies of the Office;

5. Provide a public forum for receiving comments and disseminating information to the public and the regulated community regarding goals, objectives, priorities, and policies of the Office

of Juvenile Affairs at least quarterly. The Board shall have the authority to adopt nonbinding resolutions requesting action by the Office of Juvenile Affairs in response to comments received or upon the Board's own initiative; and

6. Establish contracting procedures for the Office of Juvenile Affairs and guidelines for rates of payment for services provided by contract.

G. 1. As the rulemaking body of the Office of Juvenile Affairs, the Board is specifically charged with the duty of promulgating rules which will implement the duties and responsibilities of the Office pursuant to the Oklahoma Juvenile Code.

2. Effective July 1, 1995, any administrative policies adopted by the Commission for Human Services related to personnel and other administrative issues and any rules promulgated relating to the custody, care and supervision of children adjudicated to be delinquent or in need of supervision shall be and remain in effect until amended or new rules are promulgated by the Board of Juvenile Affairs.

3. Any rules adopted by the Commission for Human Services related to personnel and other administrative issues and the custody, care and supervision of children adjudicated to be delinquent or in need of supervision and subject to review by the Legislature during the 1st Session of the 45th Oklahoma Legislature may be finally adopted and promulgated by the Board of Juvenile Affairs pursuant to the Administrative Procedures Act.

4. Starting April 1, 1995, the Board of Juvenile Affairs shall conduct an internal review of current permanent and emergency rules relating to the custody, care and supervision of children adjudicated to be delinquent or in need of supervision to determine whether such rules need to be amended, or repealed, reinstated, or recodified. By January 1, 1997, the Board shall have adopted permanent rules to implement the programs and functions within its jurisdiction and shall submit such rules for legislative review pursuant to Article I of the Administrative Procedures Act.

5. The Board of Juvenile Affairs shall develop performance standards for programs implemented, either directly or pursuant to contract, by the Office of Juvenile Affairs.

Added by Laws 1994, c. 290, § 6, eff. July 1, 1994. Amended by Laws 1995, c. 352, § 73, eff. July 1, 1995. Renumbered from § 1507.3 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1996, c. 247, § 8, eff. July 1, 1996; Laws 2002, c. 375, § 3, eff. Nov. 5, 2002; Laws 2004, c. 429, § 1, emerg. eff. June 4, 2004; Laws 2006, c. 320, § 2, emerg. eff. June 9, 2006; Laws 2009, c. 234, § 6, emerg. eff. May 21, 2009. Renumbered from § 7302-1.1 of Title 10 by Laws 2009, c. 234, § 169, emerg. eff. May 21, 2009. Amended by Laws 2019, c. 2, § 1, emerg. eff. March 13, 2019.

§10A-2-7-201. Executive Director - Qualifications - Powers and duties.

A. The Executive Director of the Office of Juvenile Affairs shall be appointed by the Governor with the advice and consent of the Senate. The Executive Director shall serve at the pleasure of the Governor and may be removed or replaced without cause. Compensation for the Executive Director shall be determined pursuant to the Governor. The Executive Director may be removed from office by a two-thirds (2/3) vote of the members elected to and constituting each chamber of the Legislature.

B. The Executive Director of the Office of Juvenile Affairs shall be qualified for such position by character, ability, education, training, and successful administrative experience in one of the following: Corrections, juvenile justice, juvenile delinquency, criminal justice, law, police science, criminology, psychology, sociology, administration, education, or a related social science.

C. The Executive Director shall provide for the administration of the Office of Juvenile Affairs and shall:

1. Be the executive officer and supervise the activities of the Office of Juvenile Affairs;
2. Pursuant to legislative authorization employ, discharge, appoint or contract with, and fix the duties and compensation of such assistants, attorneys, law enforcement officers, probation officers, psychologists, social workers, medical professionals, administrative, clerical and technical, investigators, aides and such other personnel, either on a full-time, part-time, fee or contractual basis, as in the judgment and discretion of the Executive Director shall be deemed necessary in the performance or carrying out of any of the purposes, objectives, responsibilities, or statutory provisions relating to the Office of Juvenile Affairs, or to assist the Executive Director of the Office of Juvenile Affairs in the performance of official duties and functions;
3. Establish internal policies and procedures for the proper and efficient administration of the Office of Juvenile Affairs; and
4. Exercise all incidental powers which are necessary and proper to implement the purposes of the Office of Juvenile Affairs pursuant to the Oklahoma Juvenile Code.

D. The Executive Director shall employ an attorney to be designated the "General Counsel" who shall be the legal advisor for the Office of Juvenile Affairs. Except as provided in this subsection, the General Counsel is authorized to appear for and represent the Board and Office in any litigation that may arise in the discharge of the duties of the Board and Office.

It shall continue to be the duty of the Attorney General to give an official opinion to the Executive Director of the Office of Juvenile Affairs and the Office of Juvenile Affairs and to prosecute

and defend actions therefor, if requested to do so. The Attorney General may levy and collect costs, expenses of litigation and a reasonable attorney fee for such legal services from the Office. The Office shall not contract for representation by private legal counsel unless approved by the Attorney General. Such contract for private legal counsel shall be in the best interests of the state. The Attorney General shall be notified by the Office of Juvenile Affairs or its counsel of all lawsuits against the Office of Juvenile Affairs or officers or employees thereof, that seek injunctive relief which would impose obligations requiring the expenditure of funds in excess of unencumbered monies in the agency's appropriations or beyond the current fiscal year. The Attorney General shall review any such cases and may represent the interests of the state, if the Attorney General considers it to be in the best interest of the state to do so, in which case the Attorney General shall be paid as provided in this subsection. Representation of multiple defendants in such actions may, at the discretion of the Attorney General, be divided with counsel for the Office as necessary to avoid conflicts of interest.

E. The Executive Director of the Office of Juvenile Affairs shall have the authority to commission certified employees within the Office of Juvenile Affairs as peace officers. The authority of employees so commissioned shall only include the authority to investigate crimes committed against the Office or crimes committed in the course of any program administered by the Office. Employees so commissioned shall also have the authority to serve and execute process, bench warrants, and other court orders in any judicial or administrative proceeding in which the agency is a party or participant. Use and possession of firearms for this purpose only shall be permitted. To become qualified as peace officers for the commission, employees shall first obtain a certificate as provided for in Section 3311 of Title 70 of the Oklahoma Statutes.

F. The Executive Director of the Office of Juvenile Affairs, based upon rules established by the Board of Juvenile Affairs, shall have the authority to appoint and commission campus police for secure juvenile facilities and their adjacent grounds under the jurisdiction of the Office of Juvenile Affairs in the same manner and with the same powers as campus police appointed by governing boards of state institutions for higher education under the provisions of Section 360.15 et seq. of Title 74 of the Oklahoma Statutes.

G. In the event of the Executive Director's temporary absence, the Executive Director may delegate the exercise of such powers and duties to a designee during the Executive Director's absence. In the event of a vacancy in the position of Executive Director, the Governor shall appoint a new Executive Director. The Board may designate an interim or acting Executive Director who is authorized

to exercise such powers and duties until a permanent Executive Director is employed.

Added by Laws 1994, c. 290, § 7, eff. July 1, 1994. Amended by Laws 1995, c. 352, § 74, eff. July 1, 1995. Renumbered from § 1507.4 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1996, c. 247, § 9, eff. July 1, 1996; Laws 1997, c. 293, § 3, eff. July 1, 1997; Laws 2006, c. 320, § 3, emerg. eff. June 9, 2006; Laws 2008, c. 341, § 1, eff. Nov. 1, 2008. Renumbered from § 7302-2.1 of Title 10 by Laws 2009, c. 234, § 170, emerg. eff. May 21, 2009. Amended by Laws 2012, c. 246, § 1, eff. Nov. 1, 2012; Laws 2016, c. 386, § 1, eff. Nov. 1, 2016; Laws 2019, c. 2, § 2, emerg. eff. March 13, 2019.

§10A-2-7-202. Creation of office - Powers and duties.

A. There is hereby created the Office of Juvenile Affairs which shall be responsible for programs and services for juveniles alleged or adjudicated to be delinquent or in need of supervision. Within the Office of Juvenile Affairs there is hereby created:

1. The Division of Institutional Services which shall be responsible for the institutions operated by or contracted for by the Office of Juvenile Affairs;

2. The Division of Community-based Youth Services which shall be responsible for contracting with, monitoring, evaluation and support of community-based Youth Services Agencies;

3. The Division of Juvenile and Treatment Services which shall be responsible for intake, probation and parole services, supervision and placement of juveniles and the contracting for, monitoring and evaluation of residential and treatment programs other than institutions and community-based Youth Services Agencies; and

4. Such other divisions specifically established by the Executive Director of the Office of Juvenile Affairs, with the approval of the Board.

The Executive Director of the Office of Juvenile Affairs, with the approval of the Board, shall appoint a Director of the Division of Institutional Services, a Director of the Division of Community-based Youth Services, and a Director of the Division of Juvenile and Treatment Services to serve as the administrative head of each division, respectively. The Division Directors shall have at least six (6) years of experience in the same or similar programs or facilities as they are to supervise and a baccalaureate degree or higher level of education.

B. Suitable office space shall be provided by the Office of Management and Enterprise Services to the Office of Juvenile Affairs, to the extent necessary for the Office to implement its jurisdictional duties provided by the Oklahoma Juvenile Code, and the Office may incur necessary expenses for office rent.

C. Effective July 1, 1995, the Office of Juvenile Affairs shall be a Merit System agency and all employees of the Office of Juvenile Affairs shall be classified employees who are subject to the Oklahoma Personnel Act and the Merit System of Personnel Administration, except as otherwise provided by law. Effective June 1, 2020, employees hired for service at the Southwest Oklahoma Juvenile Center in Manitou shall be considered unclassified and employed in a term-limited appointment. If state services continue at the facility after the designated term, the employee may be transferred into a non-term-limited position. Current employees and employees hired prior to June 1, 2020, shall not be subject to this provision.

D. Effective July 1, 1995, within its jurisdictional areas of responsibility, the Office of Juvenile Affairs, acting through the Executive Director, or persons authorized by law, rule or designated by the Executive Director to perform such acts, shall have the power and duty to:

1. Advise, consult, cooperate and enter into agreements with agencies of the state, municipalities and counties, other states and the federal government, and other persons;
2. Enter into agreements for, accept, administer and use, disburse and administer grants of money, personnel and property from the federal government or any department or agency thereof, or from any state or state agency, or from any other source, to promote and carry on in this state any program within its jurisdictional area of responsibility;
3. Require the establishment and maintenance of records and reports;
4. Establish a system of training for personnel in order to assure uniform statewide application of law and rules;
5. Enforce the provisions of the Oklahoma Juvenile Code and rules promulgated thereunder and orders issued pursuant thereto;
6. Charge and receive fees pursuant to fee schedules promulgated by the Board of Juvenile Affairs;
7. Conduct studies, research and planning of programs and functions, pursuant to the authority granted by the Oklahoma Juvenile Code;
8. Enter into interagency agreements;
9. Provide administrative and support services to the Board of Juvenile Affairs as necessary to assist the Board in the performance of their duties;
10. Establish and maintain such facilities and institutions as are necessary or convenient for the operation of programs for children under the jurisdiction of the Office of Juvenile Affairs;
11. Lease, from time to time, any real property which the Board of Juvenile Affairs shall determine advisable to more fully carry into effect the operation of the Office of Juvenile Affairs in accordance with applicable state statutes. All such leases for real

property shall be subject to the provisions of Section 63 of Title 74 of the Oklahoma Statutes;

12. Purchase or lease any equipment, supplies or materials pursuant to The Oklahoma Central Purchasing Act;

13. Contract for professional services;

14. Acquire, construct, extend, and operate any and all facilities of all kinds which in the judgment of the Executive Director and the approval of the Legislature shall be necessary or convenient to carry out the duties of the Office of Juvenile Affairs, as authorized by law; and

15. Exercise all incidental powers which are necessary and proper to implement and administer the purposes of the Oklahoma Juvenile Code.

E. The Office of Juvenile Affairs shall maintain a fair, simple and expeditious system for resolution of grievances of all persons committed to the Office of Juvenile Affairs regarding the substance or application of any written or unwritten policy, rule of the Board of Juvenile Affairs or of an agent or contractor of the Office of Juvenile Affairs or any decision, behavior or action by an employee, agent or contractor or by any other person committed to the Office of Juvenile Affairs.

F. Effective November 1, 2012, the Office of Juvenile Affairs shall establish a system of certification in accordance with the Oklahoma Child Care Facilities Licensing Act for the shelters managed and operated by the Department of Human Services pursuant to the requirements of Section 1-9-111 of this title. The Office of Juvenile Affairs shall certify shelters pursuant to the requirements of existing rules as established by the Oklahoma Commission on Children and Youth until such time the Office of Juvenile Affairs has promulgated rules for the certification of shelters.

Added by Laws 1994, c. 290, § 8, eff. July 1, 1994. Amended by Laws 1995, c. 352, § 75, eff. July 1, 1995. Renumbered from § 1507.5 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 2006, c. 320, § 4, emerg. eff. June 9, 2006; Laws 2007, c. 61, § 1, eff. Nov. 1, 2007. Renumbered from § 7302-2.2 of Title 10 by Laws 2009, c. 234, § 170, emerg. eff. May 21, 2009. Amended by Laws 2012, c. 353, § 9, emerg. eff. June 8, 2012; Laws 2013, c. 15, § 5, emerg. eff. April 8, 2013; Laws 2018, c. 222, § 1, eff. Nov. 1, 2018.

NOTE: Laws 2012, c. 304, § 41 repealed by Laws 2013, c. 15, § 6, emerg. eff. April 8, 2013.

§10A-2-7-203. Agreement with Supreme Court.

The Office of Juvenile Affairs and the Department of Human Services shall enter into an agreement with the State Supreme Court acceptable to that Court in its capacity as the constitutional manager of the State Court System:

1. To develop and recommend educational programs for judges whose docket responsibilities include cases involving the care, custody, guardianship, or support of children, for persons who provide services to children within the jurisdiction of the courts, and for attorneys who practice before courts with such jurisdiction;

2. To identify areas in which improvements may be made in the administration and procedures of the courts and to make appropriate recommendations; and

3. To identify areas in which improvements may be made in the services subject to oversight by the courts and to make appropriate recommendations.

Added by Laws 1975, p. 761, S.J.R. No. 13, § 2, operative Oct. 1, 1975. Amended by Laws 1995, c. 352, § 76, eff. July 1, 1995.

Renumbered from § 602 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1996, c. 247, § 10, eff. July 1, 1996. Renumbered from § 7302-2.3 of Title 10 by Laws 2009, c. 234, § 170, emerg. eff. May 21, 2009.

§10A-2-7-204. Employee's personal property damaged or destroyed by juvenile in custody - Repair or replacement.

The Office of Juvenile Affairs is authorized to repair or replace the personal property of an employee if the personal property is damaged or destroyed by a juvenile who is in the custody of the Office of Juvenile Affairs while the employee is engaged in the performance of official duties for the Office of Juvenile Affairs. Any personal property repaired or replaced shall be comparable in kind, quality and cost to the original property. Reimbursement shall not duplicate insurance coverage carried by the employee.

Added by Laws 1996, c. 247, § 11, eff. July 1, 1996. Renumbered from § 7302-2.4 of Title 10 by Laws 2009, c. 234, § 170, emerg. eff. May 21, 2009.

§10A-2-7-301. Office of Juvenile Affairs - Responsibilities, offices, programs - Transfer of employees, powers, duties, etc.

A. Effective July 1, 2006, in addition to other responsibilities specified by law, the Office of Juvenile Affairs shall:

1. Be the state planning and coordinating agency for statewide juvenile justice and delinquency prevention services; provided, it shall give full consideration to any recommendations of the Oklahoma Association of Youth Services regarding community-based facilities, programs or services;

2. Provide court intake, probation and parole for delinquent children; and

3. Collect and disseminate information and engage in juvenile justice or delinquency prevention activities relating to the provisions of the Oklahoma Juvenile Code.

B. The Office of Juvenile Affairs shall include the following:

1. The Office of Advocate Defender;
2. The Office of the Parole Board which shall consist of the Parole Review and Hearing Board; and
3. Such other offices prescribed by the Executive Director of the Office of Juvenile Affairs or by law.

C. 1. Effective July 1, 2006, the following programs are established within the Office of Juvenile Affairs:

- a. programs for community intervention and diversion projects to prevent juvenile delinquency,
- b. state programs for children who are potentially delinquent and/or who are adjudicated delinquent,
- c. programs for community disciplinary projects,
- d. programs of juvenile crime restitution,
- e. the Juvenile Offender Tracking Program,
- f. regimented juvenile training programs,
- g. the Delinquency and Youth Gang Intervention and Prevention Act, and
- h. such other programs prescribed by the Executive Director of the Office of Juvenile Affairs or by law.

2. Beginning July 1, 1995, the Office of Juvenile Affairs, in cooperation with the courts, shall develop programs which can be used directly by the Office of Juvenile Affairs or can be used in communities with the assistance of the Office of Juvenile Affairs to divert juveniles at risk of becoming delinquent from the formal court process. Any such programs shall meet the requirements of Section 2-2-404 of this title.

D. Beginning July 1, 1995, the Office of Juvenile Affairs, in its role as coordinator for delinquency prevention services, shall, after full consideration of any recommendation of the Oklahoma Association of Youth Services:

1. Establish guidelines for juvenile delinquency prevention and diversion programs for use in community-based programs, including but not limited to:

- a. counseling programs,
- b. recreational programs,
- c. job skills workshops,
- d. community public improvement projects,
- e. mediation programs,
- f. programs to improve relationships between juveniles and law enforcement personnel,
- g. diagnostic evaluation services,
- h. substance abuse prevention programs,
- i. independent living skills and self-sufficiency planning programs, and
- j. case management services; and

2. Provide that personnel shall be available in each county of the state to assist local communities in developing and implementing

community programs to prevent delinquency and to divert juveniles who have committed delinquent acts from committing further delinquent or criminal acts. The Office of Juvenile Affairs shall provide this service in each county either directly or by contract.

E. 1. On July 1, 2006, the following programs or divisions, which were transferred from the Department of Human Services to the Department of Juvenile Justice on July 1, 1995, shall be transferred, along with funding allocations, to the Office of Juvenile Affairs:

- a. the Residential Services Unit of the Office of Juvenile Justice and all staff for the Unit,
- b. the Quality Assurance Monitoring Unit of the Office of Juvenile Justice and all staff for the Unit,
- c. the Contract Management/Youth Services Unit of the Office of Juvenile Justice and all staff for the Unit,
- d. the Psychological Unit of the Office of Juvenile Justice and all staff for the Unit,
- e. the Juvenile Services Unit and all field and supervisory staff for the Unit,
- f. all institutional staff for institutions transferred from the Department of Human Services to the Office of Juvenile Affairs,
- g. all staff assigned to the community residential programs of the Office of Juvenile Justice,
- h. the Management Services Unit of the Office of Juvenile Justice,
- i. the Programs Unit of the Office of Juvenile Justice,
- j. all staff of the business office of the Office of Juvenile Justice,
- k. the Planning and Information Unit of the Office of Juvenile Justice,
- l. all staff of the Office of Juvenile Justice assigned to serve as the liaison to the Federal Court Monitor of the Office of Juvenile Justice,
- m. the Parole Review and Hearing Board within the Office of the General Counsel of the Department of Human Services and all members of the Board and support staff for the Board, and
- n. the Division Administrator for the Office of Juvenile Justice and administrative staff for the Division Administrator.

2. The Office of Juvenile Affairs and the Department of Human Services may enter into an agreement for the transfer of personnel on July 1, 1995, from the Department of Human Services to the Office of Juvenile Affairs. No selected employee shall be transferred to the Office of Juvenile Affairs, except on the freely given written consent of the employee.

3. The classified and unclassified employees who are transferred pursuant to paragraph 1 or 2 of this subsection from the Department of Human Services to the Office of Juvenile Affairs on July 1, 1995, shall be subject to the following provisions:

- a. classified employees shall remain subject to the provisions of the Merit System of Personnel Administration as provided in the Oklahoma Personnel Act except that such employees shall be exempt from the provisions of the Merit System pertaining to classification until October 1, 1995. Effective October 1, 1995, such employees shall be given status in the class to which the position occupied by the employee on October 1, 1995, is allocated by the Office of Personnel Management. The salary of such an employee shall not be reduced as a result of such position allocation, and if the employee's salary is below the minimum rate of pay for the class to which the position occupied by the employee on October 1, 1995, is allocated, the employee's salary shall be adjusted up to the minimum rate of pay; provided, if such allocation is a promotion, the minimum rate shall be determined as provided in 530:10-7-14 of the Oklahoma Administrative Code,
- b. unclassified employees shall remain in the unclassified service and shall serve at the pleasure of the Executive Director. Effective October 1, 1995, such employees who occupy positions that are subject to the Merit System of Personnel Administration shall become classified and subject to the provisions of the Merit System of Personnel Administration pursuant to Section 840-4.1 of Title 74 of the Oklahoma Statutes. Unclassified employees who, on October 1, 1995, occupy positions that remain in the unclassified service pursuant to law, shall remain in the unclassified service and shall continue to serve at the pleasure of the Executive Director,
- c. all employees who are transferred to the Office of Juvenile Affairs shall retain leave, sick and annual time earned and any retirement and longevity benefits which have accrued during their tenure with the agency from which transferred. The salaries of employees who are transferred shall not be reduced as a direct and immediate result of the transfer. The transfer of personnel among the state agencies shall be coordinated with the Office of Personnel Management, and
- d. if the Office of Juvenile Affairs should implement a reduction in force, all employees transferred from the

Department of Human Services to the Office of Juvenile Affairs on July 1, 1995, shall be credited for the time they were employed by the Department of Human Services. The Office of Juvenile Affairs may enter into a contract for professional services for any contract that was in effect at the time of the posting of the reduction in force with a person who has been separated from service with the Office of Juvenile Affairs as a result of the reduction in force.

F. Effective July 1, 1995, custody, care and supervision of juveniles adjudicated to be delinquent or in need of supervision and any monies and funds received on behalf of such juveniles are hereby transferred from the Department of Human Services to the Office of Juvenile Affairs. Records in the custody of the Department of Human Services on the transfer date relating to delinquent juveniles and juveniles in need of supervision shall be transferred to the Department of Juvenile Justice. Effective July 1, 2006, records in the custody of the Department of Juvenile Justice relating to delinquent juveniles and juveniles in need of supervision shall be transferred to the Office of Juvenile Affairs.

G. Effective July 1, 1995, all powers, duties, records, property, assets, monies and funds of the Office of Juvenile Justice shall be transferred to the Office of Juvenile Affairs. Effective July 1, 1995, liabilities of the Office of Juvenile Justice shall be transferred to the Office of Juvenile Affairs as provided for in the appropriation process of the Legislature. Any additional administrative support or costs incurred by the Office of Juvenile Affairs as a result of the transfer required by this section shall be borne by the Office of Juvenile Affairs.

H. The Office of Juvenile Justice shall be abolished by the Commission for Human Services after such transfer has been completed.

I. The Director of State Finance is hereby directed to coordinate the transfer of assets, funds, allotments, purchase orders, liabilities, outstanding financial obligations or encumbrances provided for in this section. The Department of Central Services is hereby directed to coordinate the transfer of property and records provided for in this section.

Added by Laws 1994, c. 290, § 9, eff. July 1, 1994. Amended by Laws 1995, c. 352, § 77, eff. July 1, 1995. Renumbered from § 1507.6 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 2006, c. 320, § 5, emerg. eff. June 9, 2006; Laws 2007, c. 1, § 5, emerg. eff. Feb. 22, 2007; Laws 2009, c. 234, § 7, emerg. eff. May 21, 2009. Renumbered from § 7302-3.1 of Title 10 by Laws 2009, c. 234, § 171, emerg. eff. May 21, 2009.

NOTE: Laws 2006, c. 124, § 2 repealed by Laws 2007, c. 1, § 6, emerg. eff. Feb. 22, 2007.

§10A-2-7-302. Division of Advocate Defender - Advocate General - Duties and responsibilities.

A. There is hereby established within the Office of Juvenile Affairs the Division of Advocate Defender which will be separate and apart from the Office of General Counsel. The administrative officer of the Division of Advocate Defender shall be the Advocate General, who shall be an attorney with a minimum of three (3) years of experience as an attorney. The Executive Director of the Office of Juvenile Affairs shall employ such other personnel as may be necessary to carry out the purposes of this section. Such personnel may be dismissed only for cause.

B. The duties and responsibilities of the Advocate General are as follows:

1. Supervise personnel assigned to children's institutions and facilities as student defender/representatives;
2. Monitor and review grievance procedures and hearings;
3. Investigate grievances of juveniles and staff grievances related to juveniles which are not resolved at the facility level;
4. In cooperation with the Executive Director, establish a system for investigating allegations of misconduct by a person responsible for a child with regard to any child in the custody of the Office of Juvenile Affairs and placed in an Office of Juvenile Affairs secure juvenile facility;
5. Monitor the system to ensure the appropriate reporting to the Department of Human Services of allegations of abuse or neglect of juveniles who are in the custody of the Office of Juvenile Affairs and placed in private facilities or facilities operated by the Office of Juvenile Affairs;
6. Coordinate any hearings or meetings of administrative review committees conducted as a result of unresolved grievances or as a result of investigations;
7. Make recommendations to the Executive Director of the Office of Juvenile Affairs, and provide regular or special reports regarding grievance procedures, hearings and investigations to the Executive Director of the Office of Juvenile Affairs, the Office of Juvenile System Oversight and other appropriate persons as necessary;
8. Forward to the Office of Juvenile Systems Oversight, for the information of the Executive Director of the Office of Juvenile Systems Oversight, a copy of the final report of a complaint which is not resolved, through the system for resolution of grievances established by the Office of Juvenile Affairs, in the favor of the complainant; and
9. Perform such other duties as required by the Executive Director of the Office of Juvenile Affairs.

Added by Laws 1994, c. 290, § 10, eff. July 1, 1994. Amended by Laws 1995, c. 352, § 78, eff. July 1, 1995. Renumbered from § 1507.7 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by

Laws 2009, c. 234, § 8, emerg. eff. May 21, 2009. Renumbered from § 7302-3.2 of Title 10 by Laws 2009, c. 234, § 171, emerg. eff. May 21, 2009. Amended by Laws 2010, c. 220, § 3, emerg. eff. May 6, 2010.

§10A-2-7-303. Community-based programs.

The Office of Juvenile Affairs, in its role as planner and coordinator for juvenile justice and delinquency prevention services, is hereby authorized to and shall enter into contracts for the establishment and maintenance of community-based facilities, services and programs which may include, but are not limited to: Children's emergency resource center, diagnosis, crisis intervention, counseling, group work, case supervision, job placement, school-based prevention programs, alternative diversion programs for first-time offenders and for youth alleged or adjudicated to be in need of supervision, recruitment and training of volunteers, consultation, case management services, and agency coordination with emphasis on keeping youth with a high potential for delinquency out of the traditional juvenile justice process and community intervention centers. The Office of Juvenile Affairs shall enter into contracts with Youth Services Agencies for core community-based facilities, programs and services based on need as indicated in its State Plan for Youth Services Agencies.

Added by Laws 1975, p. 761, S.J.R. No. 13, § 3, operative Oct. 1, 1975. Amended by Laws 1982, c. 312, § 10, operative July 1, 1982; Laws 1995, c. 352, § 79, eff. July 1, 1995. Renumbered from § 603 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1996, c. 247, § 12, eff. July 1, 1996; Laws 1997, c. 293, § 4, eff. July 1, 1997; Laws 2006, c. 320, § 6, emerg. eff. June 9, 2006. Renumbered from § 7302-3.3 of Title 10 by Laws 2009, c. 234, § 171, emerg. eff. May 21, 2009. Amended by Laws 2013, c. 404, § 20, eff. Nov. 1, 2013; Laws 2017, c. 254, § 4, eff. Nov. 1, 2017.

§10A-2-7-304. Financial agreements.

The Office of Juvenile Affairs, in its role as planner and coordinator for juvenile justice and delinquency prevention services, is hereby authorized to enter into financial agreements with federal, state and local agencies or entities of government, or with any private agency, for juvenile delinquency prevention programs and juvenile treatment programs.

Added by Laws 1975, p. 761, S.J.R. No. 13, § 4, operative Oct. 1, 1975. Amended by Laws 1982, c. 312, § 11, operative July 1, 1982; Laws 1995, c. 352, § 80, eff. July 1, 1995. Renumbered from § 604 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 2006, c. 320, § 7, emerg. eff. June 9, 2006. Renumbered from § 7302-3.4 of Title 10 by Laws 2009, c. 234, § 171, emerg. eff. May 21, 2009.

§10A-2-7-305. Agreements to establish or maintain community-based youth service programs, shelters and community intervention centers.

A. The Office of Juvenile Affairs is authorized to enter into contracts to establish or maintain community-based youth service programs, shelters and community intervention centers out of local, state and federal monies.

B. The Office of Juvenile Affairs shall take all necessary steps to develop and implement a diversity of community services and community-based residential care as needed to provide for adequate and appropriate community-based care, treatment and rehabilitation of children in the care, custody, and supervision of the Office of Juvenile Affairs. Such community services and residential care shall be consistent with the treatment needs of the child and the protection of the public.

1. The Office of Juvenile Affairs shall, to the extent reasonable and practicable, provide community-based services, community residential care and community intervention centers to children in the custody of the Office of Juvenile Affairs through financial agreements, as authorized in Sections 2-7-303 and 2-7-304 of this title.

2. The Office of Juvenile Affairs shall establish procedures for the letting of grants or contracts, and the conditions and requirements for the receipt of such grants or contracts, for community-based services, community residential care and community intervention centers. A copy of such procedures shall be made available to any member of the general public upon request.

C. Any state agency letting grants or contracts for the establishment of community residential care or treatment facilities for children shall require, as a condition for receipt of such grants or contracts, documented assurance from the agency or organization establishing such facility that appropriate arrangements have been made for providing the educational services to which residents of the facility are entitled pursuant to state and federal law.

D. 1. The Office of Juvenile Affairs shall certify community intervention centers that are established by one or more municipalities or one or more counties or juvenile bureaus pursuant to rules promulgated by the Board of Juvenile Affairs. The municipality, county or juvenile bureau may enter into contracts or subcontracts with one or more service providers. The service provider, whether a municipality, county or other entity, must have access to the management information system provided for in Section 2-7-308 of this title and must employ qualified staff, as determined by the Office of Juvenile Affairs.

2. The community intervention center shall serve as a short-term reception facility to receive and hold juveniles who have been taken into custody by law enforcement agencies for the alleged violation of a municipal ordinance or state law or who are alleged to be in need

of supervision and for whom detention is inappropriate or unavailable. The community intervention center may receive and hold juveniles for whom detention is appropriate and available pending transportation by law enforcement to a detention facility; provided, custody by law enforcement shall not be relinquished to the community intervention center until detention eligibility and bed availability are determined by the designated detention screener and an order for detention is issued. The community intervention center may be a secure facility. Juveniles held in the community intervention facility shall not be isolated from common areas other than for short-term protective holding for combative or self-destructive behavior, as defined by the Office of Juvenile Affairs.

3. Juveniles shall not be held in a community intervention center for more than twenty-four (24) hours.

4. The community intervention center shall perform the following functions:

- a. enter demographic information into the management information system provided for in Section 2-7-308 of this title,
- b. immediately notify the parents or parent, guardian, or other person legally responsible for the juvenile's care, or if such legally responsible person is unavailable the adult with whom the juvenile resides, that the juvenile has been taken into custody and to pick up the juvenile,
- c. hold juveniles until they can be released to a parent, guardian, or other responsible adult or until a temporary placement can be secured, but in no event for longer than twenty-four (24) hours, and
- d. ensure that a written promise is executed by the parent, guardian or other responsible adult to bring the child to court at any time if a petition is to be filed.

5. The community intervention center may perform the following functions:

- a. gather information to determine if the juvenile is in need of immediate medical attention,
- b. conduct an initial assessment pursuant to rules promulgated by the Board. Such initial assessment may be given without parental consent if the juvenile agrees to participate in the assessment, and
- c. conduct an assessment pursuant to a Problem Behavior Inventory or a Mental Status Checklist or an equivalent assessment instrument authorized by rules promulgated by the Board, if written permission to do so is obtained from the parent, guardian or other person legally responsible for the care of the juvenile. Such

person and the juvenile may review the assessment instrument prior to the assessment process, must be informed that participation in the assessment is voluntary and that refusal to participate shall not result in any penalty, and must sign a written acknowledgment that they were given an opportunity to review the assessment instrument. The assessment shall be used to develop recommendations to correct the behavior of the juvenile, to divert the progression of the juvenile into the juvenile justice system, to determine if the juvenile is in need of nonemergency medical treatment, and to determine if the juvenile is the victim of violence. Information derived from the assessment shall not be made available to prosecutors or the court prior to adjudication of the alleged offense, and shall not be used in any phase of prosecution but may be used by the court following adjudication for the dispositional order and may be used for referrals to social services.

6. A juvenile alleged to have committed an offense which would be a felony if committed by an adult may be fingerprinted at a community intervention center. No other juveniles shall be fingerprinted at community intervention centers.

7. Community intervention centers shall be certified pursuant to standards established by the Office of Juvenile Affairs and rules promulgated by the Board.

Added by Laws 1976, p. 600, S.J.R. No. 56, § 1, emerg. eff. March 16, 1976. Amended by Laws 1978, c. 307, § 1, emerg. eff. May 10, 1978; Laws 1982, c. 312, § 12, operative July 1, 1982; Laws 1984, c. 182, § 3, emerg. eff. May 7, 1984; Laws 1989, c. 345, § 4, eff. Oct. 1, 1989; Laws 1990, c. 302, § 12, eff. Sept. 1, 1990; Laws 1995, c. 352, § 81, eff. July 1, 1995. Renumbered from § 607 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1996, c. 247, § 13, eff. July 1, 1996; Laws 1999, c. 365, § 3, eff. Nov. 1, 1999; Laws 2006, c. 320, § 8, emerg. eff. June 9, 2006; Laws 2009, c. 234, § 9, emerg. eff. May 21, 2009. Renumbered from § 7302-3.5 of Title 10 by Laws 2009, c. 234, § 171, emerg. eff. May 21, 2009. Amended by Laws 2013, c. 404, § 21, eff. Nov. 1, 2013; Laws 2015, c. 273, § 1, eff. Nov. 1, 2015; Laws 2017, c. 225, § 1, eff. Nov. 1, 2017.

§10A-2-7-306. Designation of organizations as Youth Services Agencies - Termination of designation - Contract administration.

A. Funds specifically appropriated to the Office of Juvenile Affairs for designated Youth Services Agency programs for both the Office of Juvenile Affairs and the Department of Human Services or funds allocated by the Department of Human Services for designated

Youth Services programs and provided to the Office of Juvenile Affairs by interagency agreement shall be made available through contracts negotiated by the Office of Juvenile Affairs to organizations designated by the Board of Juvenile Affairs as "Youth Services Agencies". All core community-based programs and services to be performed by a Youth Services Agency during a contract period shall be included in one contract or contract extension for that period. Designations of Youth Services Agencies by the Board shall be granted based on community needs, as indicated in the State Plan for Youth Services Agencies which shall be adopted by rule by the Board. The State Plan for Youth Services Agencies shall be adopted in accordance with criteria approved by the Board of Juvenile Affairs after full consideration of any recommendations of the Department of Human Services and the Oklahoma Association of Youth Services. The criteria and plan adopted by the Board shall designate community-based Youth Services Agency Service Areas that will serve as the primary catchment area for each Youth Services Agency. Until the criteria is established by the Board, the criteria established by the Commission for Human Services shall remain in effect. The criteria for designation of Youth Services Agencies shall include but shall not be limited to:

1. Capability to deliver all or part of the compensable services enumerated in Section 2-7-303 of this title, if the Youth Services Agency is to provide such services;

2. Capability to deliver all or part of the compensable children's services that the Department of Human Services is authorized to provide for by contract with a private agency, if the Youth Services Agency is to provide such services;

3. Adequate and qualified staff who are available as needed, within a reasonable time after being contacted for services in each county served by the agency;

4. Adequate services in the Youth Services Agency Area served by the agency;

5. Financial viability;

6. A documented need for the local services to be offered as determined by a local needs assessment for the Youth Services Agency Service Area that shall be reviewed and approved or modified by the Board and included in the State Plan for Youth Services Agencies; and

7. Any negative impact on the ability to provide services or the financial viability of an existing Youth Services Agency.

As used in this section, "financial viability" means the ability of a Youth Services Agency to continue to achieve its operating objectives and fulfill its mission over the long term. When determining the financial viability of a Youth Services Agency, the Office of Juvenile Affairs shall develop an analysis that takes into consideration the three (3) previous fiscal years' financial audits, if available; the previous fiscal year program audits, if available;

the current fiscal year financial position; and one-year future revenue and expenditure projection.

B. The criteria for designation of Youth Services Agencies also may include:

1. Successful completion of an initial peer review by the Oklahoma Association of Youth Services or another Oklahoma nonprofit corporation whose membership consists solely of Youth Services Agencies and of whom at least a majority of Youth Services Agencies are members; and

2. Such other criteria as the Board of Juvenile Affairs determines appropriate.

C. Each Youth Services Agency receiving, by grant or contract from the Department of Human Services on June 30, 1995, state funds specifically appropriated for community-based youth services programs, is hereby automatically designated a "Youth Services Agency".

D. The Board of Juvenile Affairs, on recommendation of the Office of Juvenile Affairs, may terminate the designation of a Youth Services Agency that:

1. Is seriously deficient in the administration of its program;

2. Loses financial viability; or

3. Fails to successfully complete the annual peer review process by the Oklahoma Association of Youth Services or another Oklahoma nonprofit corporation whose membership consists solely of Youth Services Agencies and of whom at least a majority of Youth Services Agencies are members.

Before the Board of Juvenile Affairs terminates the designation of a Youth Services Agency, the Office of Juvenile Affairs shall complete a report documenting its reasons for the termination. The report shall be submitted to the Board for review. The report shall contain an analysis of the program administration, financial viability and most recent peer review report of the Youth Services Agency. The Office of Juvenile Affairs shall also develop a plan to ensure that services provided by the Youth Services Agency whose designation is being terminated shall continue to be provided by another Youth Services Agency or agencies. In developing the plan, the Office of Juvenile Affairs shall give full consideration to any recommendations of the Oklahoma Association of Youth Services. The plan shall be submitted to the Board as part of the report documenting the reasons for termination of the Youth Services Agency by the Office of Juvenile Affairs.

Any applicant organization denied designation as a Youth Services Agency or any Youth Services Agency whose designation as a Youth Services Agency is being terminated, is entitled to an individual proceeding as provided in Article II of the Administrative Procedures Act.

E. No Youth Services Agency shall be eligible to receive funding until the beginning of the fiscal year after it receives its designation as a Youth Services Agency unless it is replacing a Youth Services Agency whose designation has been terminated. No Youth Services Agency shall receive funding for the first time if such funding will result in lowering the contract amount from the previous fiscal year for any existing Youth Services Agency.

F. The Office of Juvenile Affairs shall be the sole administrator of Youth Services Agency contracts. Any contracting procedure shall include a procedure for converting all contracts to a system of payment which will be structured in a manner that will allow for the receipt of all available federal funds. Provided, the Office of Juvenile Affairs shall make no requirement that would require a juvenile to be inappropriately diagnosed for the purpose of receiving federal reimbursement for services.

G. The Office of Juvenile Affairs and the Department of Human Services shall enter into a cooperative agreement that establishes procedures to ensure the continuation of services provided for in paragraph 2 of subsection A of this section by Youth Services Agencies. The Office of Juvenile Affairs shall consult with the Department of Human Services when assessing the capability of a Youth Services Agency to deliver services pursuant to paragraph 2 of subsection A of this section.

H. Funds for the support of Youth Services Agencies shall be authorized by the Office of Juvenile Affairs only on the basis of cost reimbursement performance contracts or fee-for-service contracts. If a Youth Services Agency provides some services on a fee-for-services basis and some services on a cost reimbursement basis, no cost which has been included as part of the rate for services provided on a fee-for-service basis shall be reimbursable under the cost reimbursement portion of the contract. Fees charged for annual peer reviews shall be reimbursable.

I. The Board may establish a fixed and uniform rate for any community-based prevention service, including services to individuals, groups, and community relations directed toward the larger community, so long as the segment of the larger community or target audience of persons to benefit is identified and the specific prevention activities to be performed are described in the rate.

J. Contracts for the support of, or for services by, Youth Services Agencies shall be negotiated in the following manner:

1. The local board of the Youth Services Agency, based upon its knowledge and assessment of the needs of the community, shall prepare and present to the Office of Juvenile Affairs a proposal to provide community-based services to juveniles and families in the youth services service area in which it is located. The proposal shall be specific in terms of its program objectives and goals and the services the Youth Services Agency proposes to render;

2. Upon receipt of the proposal of the Youth Services Agency, the Office of Juvenile Affairs shall determine if the proposal meets the criteria adopted by the Board of Juvenile Affairs in the State Plan for Youth Services Agencies and, within the resources available, meets the need for community-based services in the youth services service area. If no State Plan for Youth Services exists, the proposal shall be deemed to meet the need for community-based services in the youth services area;

3. Contracts shall require performance of a specific service or services to be performed. Where the services cannot be broken down into units, specifically measurable and reviewable services shall be stated. Contracts may contain requirements of performance based upon measurable quality outcome indicators. Documentation required for monitoring and evaluation of the contract shall be consistent with the terms of the contract, shall be in accordance with generally accepted governmental accounting practices, and so far as possible, sufficient for the Office of Juvenile Affairs to monitor the performance of the contract without being overly burdensome to the Youth Services Agency. The documentation to be required is the proper subject of negotiation as part of the contracts, and the parties may rely on the Office of Management and Enterprise Services for assistance if they are unable to reach agreement;

4. The Office of Juvenile Affairs and the Youth Services Agency shall negotiate the final terms and enter into the contract. Youth Services Agencies may authorize the Oklahoma Association of Youth Services or another Oklahoma nonprofit corporation, whose membership consists solely of Youth Services Agencies and of whom at least a majority of Youth Services Agencies are members, to negotiate on their behalf; and

5. The Office of Juvenile Affairs and a Youth Services Agency may agree to extend their fiscal year 2006 contracts for a period not to exceed one (1) year in order to implement the provisions of this subsection. The amount of money in the contracts may be amended to reflect any change in the money appropriated for fiscal year 2007 for community-based service agencies.

K. Contracts with Youth Services Agencies for community-based services shall be for a period of twelve (12) months, beginning at the first of each fiscal year, and renewable on an annual basis. Contracts shall be considered during the third and fourth quarter of the fiscal year for contracting the following year. Consideration for renewal shall include a review of the performance of the current contract including the annual peer review. If the Office of Juvenile Affairs determines the contractual relationship shall be renewed, it shall be in a new contract for the upcoming fiscal year and may or may not contain the same terms, conditions, form and format as the previous contract. Any change from the contract of the previous year that is proposed by the Youth Services Agency or the Office of

Juvenile Affairs shall be the subject of negotiation at the request of either party.

L. The Oklahoma Association of Youth Services, or another Oklahoma nonprofit corporation whose membership consists solely of Youth Services Agencies and of whom at least a majority of Youth Services Agencies are members may provide technical assistance to the Youth Services Agencies in the preparation and presentation of their proposals or negotiations as requested by a Youth Services Agency.

M. The Office of Juvenile Affairs is authorized to contract with the Oklahoma Association of Youth Services or another Oklahoma nonprofit corporation whose membership consists solely of Youth Services Agencies and of whom at least a majority of Youth Services Agencies are members for evaluation, training and program materials and for statewide office support, including rental of office space and general technical assistance for Youth Services Agencies with which the Office of Juvenile Affairs has contracts.

Added by Laws 2002, c. 4, § 4, emerg. eff. Feb. 15, 2002. Amended by Laws 2006, c. 320, § 9, emerg. eff. June 9, 2006; Laws 2009, c. 234, § 10, emerg. eff. May 21, 2009. Renumbered from § 7302-3.6a of Title 10 by Laws 2009, c. 234, § 171, emerg. eff. May 21, 2009. Amended by Laws 2012, c. 304, § 42; Laws 2013, c. 404, § 22, eff. Nov. 1, 2013.

§10A-2-7-307. Cooperative agreements with Department of Human Services.

The Office of Juvenile Affairs is hereby authorized to, and shall, enter into cooperative agreements with the Department of Human Services for the use by both Departments of existing community-based programs, management information and client tracking systems, facility certification systems, community intervention centers and other shared resources as deemed necessary or appropriate by both Departments.

Added by Laws 1995, c. 352, § 83, eff. July 1, 1995. Amended by Laws 1996, c. 247, § 14, eff. July 1, 1996; Laws 2006, c. 320, § 10, emerg. eff. June 9, 2006. Renumbered from § 7302-3.7 of Title 10 by Laws 2009, c. 234, § 171, emerg. eff. May 21, 2009.

§10A-2-7-308. Management information system - Integration with other management information systems - Access to confidential records and reports.

A. The Office of Juvenile Affairs shall implement an agency-wide management information system for all programs and services of the Office of Juvenile Affairs related to children, youth and families.

B. The management information system shall:

1. To the maximum extent possible, be based upon the integration, utilization and modification, as necessary, of existing information systems within the Office of Juvenile Affairs;

2. Provide for the security of and limited access to the information;

3. Include case-specific information, including outcomes, and have the ability to monitor the status of children and youth receiving services through the Office of Juvenile Affairs;

4. Be capable of providing management reports and information regarding the various children and youth programs of the Office of Juvenile Affairs, and of providing aggregate information necessary for planning, monitoring and evaluation of said programs and services; and

5. Be designed so that management and analytical reports can be readily generated for those who require them.

C. 1. The management information system implemented by the Office of Juvenile Affairs shall be integrated with the child welfare management information system implemented by the Department of Human Services and to the extent possible with the Juvenile Justice Information System.

2. The management information system shall be available to persons authorized to obtain confidential records and reports of the Office of Juvenile Affairs pursuant to Chapter 6 of the Oklahoma Juvenile Code.

Added by Laws 1995, c. 352, § 84, eff. July 1, 1995. Amended by Laws 2006, c. 320, § 11, emerg. eff. June 9, 2006; Laws 2009, c. 234, § 11, emerg. eff. May 21, 2009. Renumbered from § 7302-3.8 of Title 10 by Laws 2009, c. 234, § 171, emerg. eff. May 21, 2009.

§10A-2-7-309. Department planning process for services to children and youth.

A. The Office of Juvenile Affairs shall establish a planning process that provides for collaborative ongoing planning for the development of divisional and agency goals and priorities for services to children and youth. Said planning process shall be developed with the assistance of the Policy Analysis Division or equivalent division within the Office of Juvenile Affairs and the department and division directors, other state agencies and agencies with whom the departments contract to provide services to children and youth, including designated Youth Services Agencies, and shall provide for identification and assessment of needs, establishment of goals and priorities, and program implementation and monitoring, in a manner that actively involves all divisions and units within divisions.

1. The Office of Juvenile Affairs shall develop a three- to five-year plan for children and youth services provided by the agency. The plan should be regularly reviewed and modified as necessary.

2. The Executive Director shall hold each department and division director accountable for the performance of the department

or division in engaging collaboratively in the agency and in interagency planning with other state agencies and agencies with whom the Office of Juvenile Affairs contracts to provide services to children and youth, including Youth Services Agencies, for programs and services for children and youth.

3. The director of each division and administrator of each office shall actively participate and require the collaborative participation of department and division workers in interagency planning and coordination for children and youth services.

4. The director of each division and administrator for each office shall hold the administrator of each unit within the department or division responsible for the collaborative development and implementation of agency and division goals and priorities related to children and youth.

B. The unit, division, office and agency budget recommendations of the Office of Juvenile Affairs for services to children and youth shall be based upon documented needs, and the development of budget recommendations and priorities shall be closely integrated with agency and interagency program planning and management.

C. As a part of the program planning and monitoring processes of the Office of Juvenile Affairs, the Office shall examine its programs and services to children and youth to ensure that the practices within them do not operate to the detriment of minority children and youth.

Added by Laws 1991, p. 3200, H.J.R. No. 1038, § 2, emerg. eff. May 28, 1991. Amended by Laws 1995, c. 352, § 85, eff. July 1, 1995. Renumbered from § 603.2 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 2006, c. 320, § 12, emerg. eff. June 9, 2006. Renumbered from § 7302-3.9 of Title 10 by Laws 2009, c. 234, § 171, emerg. eff. May 21, 2009.

§10A-2-7-310. Defining services and programs.

The Office of Juvenile Affairs shall carefully define its services and programs as to their purpose, the population served, the needs of the community if the facility, program or service is community-based, and performance expectations. Planning for new programs and services and major modifications to existing ones shall be made only after evaluation of their effect on other existing programs and services and communication and coordination with other existing public and private children and youth service providers in order to assure successful and cost-effective implementation of the program. An evaluation component that includes monitoring and evaluation of client outcomes shall be incorporated into all of the programs and services of the Office of Juvenile Affairs to children and youth, whether provided directly by the agency or through a contract.

1. All programs and services shall be designed to ensure the accessibility of the program to the persons served. Provision for transportation, child care and similar services necessary in order to assist persons to access the services shall be made. If the service is provided in an office setting, the service shall be available during the evening, if necessary. Services may be provided in a school setting at the request of or with permission of the school.

2. Programs and services shall be targeted to the areas of the state having the greatest need for them. The programs and services shall be designed to meet the needs of the area in which they are located. Programs and services intended for statewide implementation shall be implemented first in those areas that have the greatest need for them.

3. Requests for proposals developed by the Office of Juvenile Affairs shall be based upon documented service needs and identified priorities. The request for proposals shall clearly identify the program or service requirements, the population to be served, and performance expectations. The agency shall adopt clear, written guidelines to ensure uniformity in the management, monitoring and enforcement of contracts for services. If in-state private providers are unable or unwilling to respond to the proposal, then out-of-state providers should be encouraged to respond.

Added by Laws 1995, c. 352, § 86, eff. July 1, 1995. Amended by Laws 2006, c. 320, § 13, emerg. eff. June 9, 2006. Renumbered from § 7302-3.10 of Title 10 by Laws 2009, c. 234, § 171, emerg. eff. May 21, 2009.

§10A-2-7-311. Annual review of programs and services and implementation of Youthful Offender Act - Reports.

A. The Office of Juvenile Affairs shall from time to time, but not less often than annually, review its programs and services and submit a report to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Supreme Court of the State of Oklahoma, the Board of Juvenile Affairs, and the Oklahoma Commission on Children and Youth analyzing and evaluating the effectiveness of its programs and services. The report shall include, but not be limited to:

1. An analysis and evaluation of programs and services continued, established and discontinued during the period covered by the report;

2. A description of programs and services which should be implemented;

3. Relevant information concerning the number of children comprising the population of any facility operated by the Office of Juvenile Affairs during the period covered by the report;

4. An analysis and evaluation, by age, of the number of children assessed for literacy skills, the number who failed to demonstrate

age-appropriate reading skills, and the number who were required to participate in a literacy skills improvement program; and

5. Such other information as will enable a user of the report to ascertain the effectiveness of the programs, services and facilities.

B. The Office of Juvenile Affairs shall annually analyze and evaluate the implementation of the Youthful Offender Act, the effectiveness of the Youthful Offender Act and any problems which have occurred which have limited the effectiveness of the Youthful Offender Act. The annual analysis and evaluation shall be incorporated in the report required by subsection A of this section. Added by Laws 1992, c. 299, § 4, eff. July 1, 1992. Amended by Laws 1995, c. 352, § 87, eff. July 1, 1995. Renumbered from § 610 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1996, c. 247, § 15, eff. July 1, 1996; Laws 1998, c. 364, § 8, emerg. eff. June 8, 1998; Laws 1999, c. 1, § 5, emerg. eff. Feb. 24, 1999; Laws 2006, c. 320, § 14, emerg. eff. June 9, 2006; Laws 2009, c. 234, § 12, emerg. eff. May 21, 2009. Renumbered from § 7302-3.11 of Title 10 by Laws 2009, c. 234, § 171, emerg. eff. May 21, 2009. NOTE: Laws 1998, 268, § 3 repealed by Laws 1999, c. 1, § 45, emerg. eff. Feb. 24, 1999.

§10A-2-7-401. Juvenile Detention Improvement Revolving Fund.

A. There is hereby created in the State Treasury a revolving fund for the Office of Juvenile Affairs to be designated the "Juvenile Detention Improvement Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies appropriated to the Juvenile Detention Improvement Revolving Fund and monies which may otherwise be available to the Office of Juvenile Affairs for use as provided for in this section.

B. All monies appropriated to the fund shall be budgeted and expended by the Office of Juvenile Affairs for the purpose of providing funds to counties to renovate existing juvenile detention facilities, to construct new juvenile detention facilities, to operate juvenile detention facilities and otherwise provide for secure juvenile detention services and alternatives to secure detention as necessary and appropriate, in accordance with state-approved juvenile detention standards and the State Plan for the Establishment of Juvenile Detention Services provided for in Section 2-3-103 of this title. The participation of local resources shall be a requirement for the receipt by counties of said funds and the Department shall establish a system of rates for the reimbursement of secure detention costs to counties. The methodology for the establishment of said rates may include, but not be limited to, consideration of detention costs, the size of the facility, services provided and geographic location. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims

filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

1. The rate of reimbursement of approved operating cost shall be eighty-five percent (85%) for the Office of Juvenile Affairs and fifteen percent (15%) for the county.

2. The Office of Juvenile Affairs shall approve only those applications for funds to renovate an existing juvenile detention facility or any other existing facility or to construct a new juvenile detention facility which contain proposed plans that are in compliance with state-approved juvenile detention standards.

3. The Office of Juvenile Affairs shall approve only those applications or contracts for funds to operate juvenile detention facilities or otherwise provide for secure juvenile detention services and alternatives to secure detention which are in compliance with or which are designed to achieve compliance with the State Plan for the Establishment of Juvenile Detention Services provided for in Section 2-3-103 of this title.

4. The Office of Juvenile Affairs shall, from appropriated state monies or from available federal grants, provide for payment pursuant to contract for transportation personnel and vehicle-related costs and reimburse for eligible travel costs for counties utilizing the juvenile detention facilities identified in the "State Plan for the Establishment of Juvenile Detention Services" in accordance with the provisions of the State Travel Reimbursement Act and in accordance with Section 2-3-103 of this title.

Added by Laws 1982, c. 374, § 41, emerg. eff. July 20, 1982. Amended by Laws 1983, c. 326, § 30, operative July 1, 1983; Laws 1987, c. 209, § 4, eff. July 1, 1987; Laws 1988, c. 134, § 1, emerg. eff. April 19, 1988; Laws 1994, c. 290, § 61, eff. July 1, 1994; Laws 1995, c. 352, § 88, eff. July 1, 1995. Renumbered from § 200.6 of Title 56 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1996, c. 247, § 16, eff. July 1, 1996; Laws 1997, c. 293, § 5, eff. July 1, 1997; Laws 2009, c. 234, § 13, emerg. eff. May 21, 2009. Renumbered from § 7302-4.1 of Title 10 by Laws 2009, c. 234, § 172, emerg. eff. May 21, 2009. Amended by Laws 2012, c. 304, § 43; Laws 2016, c. 67, § 2, eff. Nov. 1, 2016.

§10A-2-7-402. Court and hearing costs of Office of Juvenile Affairs - Special agency account.

There is hereby created in the State Treasury a special agency account for court and hearing costs of the Office of Juvenile Affairs. The money in the account shall be used only for court costs, court filing fees, witness fees, fees for court transcripts, audio tape duplication charges for Merit Protection hearings, service of process, costs for mailing legal documents, and expenses related to any case or proceeding within the official responsibility of the Office of General Counsel of the Office of Juvenile Affairs.

Added by Laws 1997, c. 293, § 6, eff. July 1, 1997. Renumbered from § 7302-4.2 of Title 10 by Laws 2009, c. 234, § 172, emerg. eff. May 21, 2009.

§10A-2-7-501. Intake and probation services - Services related to juvenile offenders.

A. The Office of Juvenile Affairs shall provide intake and probation services for juveniles in all counties not having a juvenile bureau and parole services in all counties of the state and may enter into agreements to supplement probationary services to juveniles in any county. The Office of Juvenile Affairs may participate in federal programs for juvenile probation officers, and may apply for, receive, use and administer federal funds for such purpose.

B. A preadjudicatory substance abuse assessment of a child may be conducted in conjunction with a court intake or preliminary inquiry pursuant to an alleged delinquent act or upon admission to a juvenile detention facility through the use of diagnostic tools including, but not limited to, urinalysis, structured interviews or substance abuse projective testing instruments.

1. Information gained from the substance abuse assessment pursuant to this subsection shall be used only for substance abuse treatment and for no other purpose. The results shall not be used in any evidentiary or fact-finding hearing in a juvenile proceeding or as the sole basis for the revocation of a community-based placement or participation in a community-based program.

2. The results of the substance abuse assessment may be given to the intake, probation or parole counselor of the child, the parent or guardian of the child or to the attorney of the child. In accordance with the Juvenile Offender Tracking Program and Section 620.6 of Title 10 of the Oklahoma Statutes, the counselor may also provide the results of the substance abuse assessment to medical personnel, therapists, school personnel or others for use in the treatment and rehabilitation of the child.

C. The Office of Juvenile Affairs and the juvenile bureaus shall implement:

1. Use of a uniform court intake risk and needs assessment for children alleged or adjudicated to be delinquent;

2. The imposition of administrative sanctions for the violation of a condition of probation or parole;

3. A case management system for ensuring appropriate:

- a. diversion of youth from the juvenile justice system,
- b. services for and supervision of all youth on preadjudicatory or postadjudicatory probation or on parole, and for juvenile offenders in the custody of the Office of Juvenile Affairs, and

- c. intensive supervision of juvenile offenders and communication between law enforcement and juvenile court personnel and others regarding such offenders; and

4. Guidelines for juvenile court personnel recommendations to district attorneys regarding the disposition of individual cases by district attorneys.

D. 1. The Office of Juvenile Affairs shall establish directly and by contract, services including, but not limited to:

- a. misdemeanor and nonserious first-time offender programs,
- b. tracking and mentor services,
- c. weekend detention,
- d. five-day out-of-home sanction placements,
- e. short-term thirty-day intensive, highly structured placements,
- f. transitional programs,
- g. substance abuse treatment and diagnostic and evaluation programs, and
- h. day treatment programs.

2. In implementing these services, the Office of Juvenile Affairs shall give priority to those areas of the state having the highest incidences of juvenile crime and delinquency.

E. 1. The following entities shall conduct, upon adjudication of a child as a delinquent or in need of supervision unless such child has been previously assessed within the six (6) months prior to such intake, a literacy skills assessment:

- a. the Office of Juvenile Affairs,
- b. a first-time offender program within a designated youth services agency,
- c. any metropolitan county juvenile bureau, or
- d. any county operating a juvenile bureau.

2. Such assessment shall be conducted through the use of diagnostic tools which include, but are not limited to:

- a. structured interviews,
- b. standardized literacy testing instruments which measure the educational proficiency of the child, and
- c. any other measure used to determine:
  - (1) whether a child is reading at an age-appropriate level, and
  - (2) the capacity of the child to read at such level.

3. The results of the literacy skills assessment required pursuant to this subsection shall be made available to the court by the district attorney for use in the disposition phase; provided, however, the results shall not be used in any evidentiary or fact-finding hearing in a juvenile proceeding to determine whether a juvenile should be adjudicated. Provided, further, such results

shall not be used as the sole basis for the revocation of a community-based placement or participation in a community-based program.

4. a. Upon request, the results of the literacy skills assessment shall be given to the following:
  - (1) the child's intake, probation or parole counselor,
  - (2) the parent or guardian of the child, or
  - (3) the child's attorney.
- b. In accordance with the Juvenile Offender Tracking Program and Section 620.6 of Title 10 of the Oklahoma Statutes, the counselor may also provide the results of the literacy skills assessment to therapists, school personnel or others for use in the training and rehabilitation of the child.
5. a. If the child is a juvenile placed in an institution or facility operated by the Office of Juvenile Affairs, the child shall be assessed and a literacy improvement program shall be implemented in accordance with Sections 2-7-601 and 2-7-603 of this title.
- b. If the child is adjudicated delinquent or in need of supervision or is being detained as part of a deferral of prosecution agreement, deferral to file agreement or a deferral sentence agreement, and the results of the literacy skills assessment show that the child is not reading at an age-appropriate level but has the capacity to improve his or her reading skills, the child shall be required to actively participate in a literacy skills improvement program which may include, but not be limited to, a program of instruction through a public or private school, including any technology center school, of this state or any other state. The child shall provide documentation of substantial quantifiable literacy improvement, sufficient to demonstrate reading proficiency at an age-appropriate or developmentally appropriate level; provided, however, failure to demonstrate substantial quantifiable literacy improvement shall not be the sole basis for not dismissing a case against a child.

Added by Laws 1968, c. 282, § 141, eff. Jan. 13, 1969. Amended by Laws 1982, c. 312, § 31, operative Oct. 1, 1982; Laws 1991, c. 296, § 16, eff. Sept. 1, 1991; Laws 1995, c. 352, § 89, eff. July 1, 1995. Renumbered from § 1141 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1997, c. 392, § 2, eff. July 1, 1997; Laws 1998, c. 268, § 4, eff. July 1, 1998; Laws 2001, c. 33, § 10, eff. July 1, 2001; Laws 2006, c. 320, § 15, emerg. eff. June 9, 2006; Laws 2009, c. 234, § 14, emerg. eff. May 21, 2009. Renumbered from §

7302-5.1 of Title 10 by Laws 2009, c. 234, § 173, emerg. eff. May 21, 2009. Amended by Laws 2013, c. 404, § 23, eff. Nov. 1, 2013.

§10A-2-7-502. Child adjudicated in need of supervision - Placement - Rehabilitative facilities - Mental health treatment.

A. Whenever a child who has been adjudicated by the court as a child in need of supervision has been committed to the Office of Juvenile Affairs, the Office may place the child in the home of the child, the home of a relative of the child, foster home, group home, transitional living program, independent living program, community-based setting, rehabilitative facility or child care facility under the operation of or licensure of the state, or in a state school for individuals with intellectual disabilities if eligible for admission thereto. No child in need of supervision shall be placed in an Office-operated institution, other than a rehabilitative facility.

B. The Office of Juvenile Affairs may establish and maintain one or more rehabilitative facilities to be used exclusively for the custody of children in need of supervision. Each such facility shall be, primarily, a nonsecure facility having as its primary purpose the rehabilitation of children adjudicated to be in need of supervision. Such facility shall have a bed capacity for no more than twenty children, and shall minimize the institutional atmosphere and prepare the child for reintegration into the community. Provided however, that such facility may be designed and operated as a secure facility used exclusively for children in need of supervision whom the court has specifically found to be so unmanageable, ungovernable and antisocial that no other reasonable alternative exists for treatment or restraint other than placement in such a secure facility. Such facility shall not rely on locked rooms, fences, or physical restraints.

C. A child in need of supervision who has been found by a court to be a minor in need of treatment shall be placed as provided by Section 2-2-804 of this title and the Inpatient Mental Health and Substance Abuse Treatment of Minors Act.

Added by Laws 1968, c. 282, § 137, eff. Jan. 13, 1969. Amended by Laws 1975, c. 187, § 1, emerg. eff. May 23, 1975; Laws 1977, c. 79, § 5; Laws 1978, c. 307, § 2, emerg. eff. May 10, 1978; Laws 1982, c. 312, § 28, operative Oct. 1, 1982; Laws 1985, c. 253, § 1, emerg. eff. July 15, 1985; Laws 1990, c. 238, § 9, emerg. eff. May 21, 1990; Laws 1992, c. 298, § 35; Laws 1995, c. 352, § 90, eff. July 1, 1995. Renumbered from § 1137 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 2002, c. 327, § 21, eff. July 1, 2002; Laws 2009, c. 234, § 15, emerg. eff. May 21, 2009. Renumbered from § 7302-5.2 of Title 10 by Laws 2009, c. 234, § 173, emerg. eff. May 21, 2009; Laws 2019, c. 475, § 13, eff. Nov. 1, 2019.

§10A-2-7-503. Delinquent children - Intent of Legislature - Powers and duties of Office.

A. It is the intent of the Legislature of this state to provide for the creation of all reasonable means and methods that can be established by a state for:

1. The prevention of delinquency;
2. The care and rehabilitation of delinquent children; and
3. The protection of the public.

It is further the intent of the Legislature that this state, through the Office of Juvenile Affairs, establish, maintain and continuously refine and develop a balanced and comprehensive state program for children who are potentially delinquent or are delinquent.

B. Except as provided in subsection C of this section, whenever a child who has been adjudicated by the court as a delinquent child has been committed to the Office of Juvenile Affairs, the Office shall provide for placement pursuant to any option authorized by paragraphs 1 through 7 of this subsection; provided, nothing in this subsection shall be construed to establish a priority in regard to the selection of an option or to mandate the exclusive use of one particular option:

1. Place the child in a secure facility, including a collocated secure facility, or other institution or facility maintained, operated or contracted by the state for delinquent children if the child has:
  - a. exhibited seriously violent, aggressive or assaultive behavior,
  - b. committed a serious felony constituting violent, aggressive and assaultive behavior,
  - c. habitually committed delinquent acts if such acts would constitute felonies if committed by an adult,
  - d. committed multiple serious delinquent acts, or
  - e. violated any condition of probation or parole,to the extent that it is necessary for the protection of the public. For purposes of placement, all deferred prosecutions for serious, habitual, violent, aggressive or assaultive crimes shall count toward placement decisions;
2. Place the child in a facility maintained, operated or contracted by the state for children, or in a foster home, group home, transitional living program or community residential center;
3. Allow the child his or her liberty, under supervision, in an independent living program;
4. Allow the child his or her liberty, under supervision, either immediately or after a period in one of the facilities referred to in paragraphs 1 and 2 of this subsection;
5. Place the child in a state school for individuals with intellectual disabilities, if the child is eligible for admission thereto;

6. Place the child in any licensed private facility deemed by the Office of Juvenile Affairs to be in the best interest of the child; or

7. Place the child as provided by Section 2-2-804 of this title and the Inpatient Mental Health and Substance Abuse Treatment of Minors Act, if the delinquent child has been found by a court to be in need of mental health or substance abuse treatment.

C. The Office shall place priority on the placement of delinquent youth held in secure juvenile detention facilities.

D. Placement of a juvenile pursuant to this section or any other provision of law shall be the responsibility of the Office of Juvenile Affairs and shall occur as soon as reasonably possible after adjudication and after the selected placement option becomes available.

The court shall not have authority to require specific placement of a juvenile in a time frame which would require the removal of any other juvenile from such placement.

Added by Laws 1968, c. 282, § 138, eff. Jan. 13, 1969. Amended by Laws 1981, c. 238, § 5, eff. Oct. 1, 1981; Laws 1982, c. 312, § 29, operative Oct. 1, 1982; Laws 1987, c. 224, § 1, eff. Nov. 1, 1987; Laws 1990, c. 238, § 10, emerg. eff. May 21, 1990; Laws 1991, c. 296, § 15, eff. Sept. 1, 1991; Laws 1992, c. 298, § 36, eff. July 1, 1993; Laws 1992, c. 373, § 4, eff. July 1, 1992; Laws 1993, c. 342, § 8, eff. July 1, 1993; Laws 1994, c. 290, § 44, eff. July 1, 1994; Laws 1995, c. 352, § 91, eff. July 1, 1995. Renumbered from § 1138 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1997, c. 293, § 7, eff. July 1, 1997; Laws 2002, c. 327, § 22, eff. July 1, 2002; Laws 2009, c. 234, § 16, emerg. eff. May 21, 2009. Renumbered from § 7302-5.3 of Title 10 by Laws 2009, c. 234, § 173, emerg. eff. May 21, 2009. Amended by Laws 2011, c. 365, § 1, emerg. eff. May 26, 2011; Laws 2014, c. 362, § 7, emerg. eff. May 28, 2014; Laws 2019, c. 475, § 14, eff. Nov. 1, 2019.

NOTE: Laws 1992, c. 299, § 11 repealed by Laws 1992, c. 373, § 22, eff. July 1, 1992.

§10A-2-7-504. Discharge of children adjudicated delinquent - Retention of custody and jurisdiction.

A. Except as otherwise provided by law, all children adjudicated delinquent and committed to the Office of Juvenile Affairs shall be discharged at such time as the Office determines there is a reasonable probability that it is no longer necessary, either for the rehabilitation and treatment of the child, or for the protection of the public, that the Office retain legal custody. Following a hearing, the court may also order that a child adjudged delinquent and committed to the Office shall be discharged by the Office provided the child is on parole status and the court deems the discharge in the best interest of the child and public. The Office

shall give a fifteen-day notice to the court and the district attorney before discharging from legal custody any child committed and confined in a secure facility.

B. Except as otherwise provided by law, all children adjudged delinquent and committed to the Office of Juvenile Affairs and not discharged under subsection A of this section shall be discharged when the child becomes eighteen (18) years of age, unless the Office is authorized by the court to retain custody of the child until nineteen (19) years of age. Upon the court's own motion or motion of the Office or the district attorney, which must be filed prior to the date the child becomes eighteen (18) years of age, the court, after notice to the delinquent child and to the parents and attorney of the child, may authorize the Office to retain custody of the child until the child reaches nineteen (19) years of age in order for the child to complete the previously adopted plan of rehabilitation or achieve reasonable treatment objectives. If the court sustains a motion to retain custody, the delinquent child during the extended period shall be considered as a child for purposes of receiving services from the Office and for the purposes of secure detention. If a child is in a juvenile detention facility pending placement and the court has ordered or the Office has requested that the Office retain custody of the child until the child reaches nineteen (19) years of age, the Office shall notify the juvenile detention facility at least five (5) days prior to the child's eighteenth birthday that the child will be remaining in the juvenile detention facility pending placement. If a criminal offense is committed by the individual during the extended period, the offense shall be considered as having been committed by an adult. Except to the extent necessary to effectuate the purposes of this section, an individual after age eighteen (18) years is considered an adult for purposes of other applicable law.

C. The Office of Juvenile Affairs shall not place a child under ten (10) years of age in an institution maintained for delinquent children.

D. The court may retain jurisdiction over a child adjudged delinquent beyond the age of eighteen (18) years to the extent necessary for the child to complete payment of court costs. The court may institute contempt proceedings pursuant to Sections 565 through 567 of Title 21 of the Oklahoma Statutes against any person adjudged delinquent and ordered to pay court costs who neglects or refuses to pay such court costs. Any child referred to in this subsection over whom the court retains jurisdiction solely for payment of court costs shall not be considered to be in the custody of or under the supervision of the Office of Juvenile Affairs.

E. Following a hearing, the court may order that any child shall be discharged by the Office of Juvenile Affairs provided the child is on parole status and the court deems the discharge in the best interest of the child and public. The Office of Juvenile Affairs

shall give a fifteen-day notice to the district attorney before discharging from legal custody any child committed and confined in a secure facility.

Added by Laws 1968, c. 282, § 139, eff. Jan. 13, 1969. Amended by Laws 1977, c. 259, § 21, eff. Oct. 1, 1977; Laws 1981, c. 238, § 6, eff. Oct. 1, 1981; Laws 1985, c. 102, § 1, eff. Nov. 1, 1985; Laws 1986, c. 247, § 18, operative July 1, 1986; Laws 1992, c. 55, § 1, emerg. eff. April 11, 1992; Laws 1993, c. 342, § 9, eff. July 1, 1993; Laws 1994, c. 2, § 4, emerg. eff. March 2, 1994; Laws 1994, c. 290, § 45, eff. July 1, 1994; Laws 1995, c. 352, § 92, eff. July 1, 1995. Renumbered from § 1139 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1997, c. 293, § 8, eff. July 1, 1997; Laws 2006, c. 124, § 3, eff. Nov. 1, 2006; Laws 2009, c. 234, § 17, emerg. eff. May 21, 2009. Renumbered from § 7302-5.4 of Title 10 by Laws 2009, c. 234, § 173, emerg. eff. May 21, 2009. Amended by Laws 2014, c. 362, § 8, emerg. eff. May 28, 2014; Laws 2017, c. 225, § 2, eff. Nov. 1, 2017.

NOTE: Laws 1993, c. 306, § 4 repealed by Laws 1994, c. 2, § 34, emerg. eff. March 2, 1994.

§10A-2-7-601. Juveniles placed in Office-operated institutions and facilities - Powers and duties of Office.

A. In addition to the other powers and duties prescribed by law, the Office of Juvenile Affairs shall have the following duties and powers with regard to juveniles placed in Office-operated institutions and facilities:

1. Provide for the care, education, training, treatment and rehabilitation of juveniles who are placed in the institutions and facilities. The Office shall provide for a uniform system of assessment of the reading ability of each juvenile upon initial placement in an Office-operated institution or facility. The assessment shall include, but not be limited to, the following skills:

- a. the level of word decoding skills of the juvenile,
- b. the level of vocabulary and spelling ability of the juvenile, and
- c. the comprehension level of the juvenile.

The Office may give assistance to local school districts in providing an education to such juveniles, may supplement such education, and may provide facilities for such purposes. It shall be the duty of the Office to assure that juveniles in the aforesaid institutions and facilities receive educational services which provide each juvenile with a balanced and comprehensive reading program, which includes as its primary and foundational components:

- (1) an organized, systematic, explicit skills program that may include phonics, word recognition strategies and other word decoding skills to

- address the needs of the individual juvenile as determined by the entry-level needs assessment,
- (2) a strong language arts and comprehension program that includes a balance of oral and written language, an ongoing individualized evaluation and diagnosis that informs the teacher and an assessment that assures accountability, and
  - (3) writing, mathematics, science and vocational-technical education;

2. Transfer from a juvenile institution to another facility under the jurisdiction of the Office, a juvenile who has been adjudicated delinquent, if the Office believes it advisable to do so; transfer from a facility for juveniles in need of supervision to another such facility, a juvenile who has been adjudicated in need of supervision, provided that such transfer is consistent with the treatment needs of the juvenile; transfer from a juvenile institution or facility to a state school for individuals with intellectual disabilities, any juvenile eligible for admission thereto, if the juvenile appears to be in need of the care and treatment provided at such school; transfer from a facility for delinquent or in need of supervision juveniles to an appropriate facility or to the Department of Mental Health and Substance Abuse Services any juvenile found by the court to be a minor in need of treatment pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Minors Act and committed to inpatient mental health or substance abuse treatment as provided by the Inpatient Mental Health and Substance Abuse Treatment of Minors Act. If a transfer is made pursuant to this paragraph, the Office shall comply with the notification requirements of Section 2-2-504 of this title;

3. Release on parole a juvenile previously adjudicated to be delinquent, subject to terms and conditions specified by the Office, whenever the Office determines that such release will not be detrimental to society and that the juvenile is ready to be returned to the community and revoke the parole for violation of the specified terms or conditions of parole pursuant to the provisions of this section and the rules and procedures established by the Office for such revocation;

4. Release any juvenile from a juvenile institution for placement in a group home, transitional living program, independent living program, other community-based facility or program or out-of-home care subject to terms and conditions specified by the Office; and

5. Provide parole services for juveniles released on parole from juvenile institutions, and aftercare services for juveniles discharged from juvenile institutions or facilities. Persons designated as Juvenile Parole Officers by the Office shall have the

power to serve process and to apprehend and detain juveniles and make arrests in accordance with the laws of the state.

B. The transfer of a juvenile from a nonsecure placement to a secure placement shall be subject to an administrative transfer hearing and any revocation of parole shall be subject to a parole revocation hearing.

1. In any administrative transfer or parole revocation proceeding, the following minimum standards shall apply:

- a. the juvenile shall have the right to notice of the proposed transfer or parole revocation hearing and the alleged violation of administrative or parole rules on which the proposed transfer or parole revocation is based,
- b. the juvenile shall have the right to representation by an attorney,
- c. the juvenile shall have the right to present evidence on behalf of the juvenile, and
- d. the juvenile shall have a right to bail, except that the right to bail shall not be construed to require that a juvenile who is in residence in an Office-operated institution or other facility at the time of an alleged violation leading to an administrative transfer proceeding be released from such institution or facility.

2. The situs of the hearings shall be the county in which the alleged violation of administrative or parole rules occurred or the county of original jurisdiction. The judge having juvenile docket jurisdiction in the county shall aid the administrative transfer or parole revocation process of the Office by:

- a. determining eligibility for and amount of bail,
- b. deciding any intermediate custody or placement issue, and
- c. if legal counsel for the juvenile has not otherwise been obtained, appointing legal counsel for the juvenile and fixing the amount of compensation for the legal counsel. The judge shall also determine if the juvenile is eligible for free legal services. If the juvenile is not eligible for free legal services, the court shall order the parents or legal guardian of the juvenile to pay for such services.

3. If legal counsel for the juvenile has not otherwise been obtained, the appointment of legal counsel for the juvenile, the setting of the amount of compensation for such counsel, and the determination of whether or not the juvenile is eligible for free legal services shall be provided for pursuant to the Indigent Defense Act; provided, however, in those counties subject to the provisions of Section 138.1 of Title 19 of the Oklahoma Statutes, the legal

services shall be provided by the county indigent defender as provided by law. If the juvenile is not eligible for free legal services, the court shall order the parents or legal guardian of the juvenile to pay for such services.

C. The Office may participate in federal programs relating to delinquent juveniles, or juveniles in need of supervision, or institutions and services for such juveniles and apply for, receive, use and administer federal funds for such purposes.

D. The Office shall receive interest earnings on the investment by the State Treasurer of monies, to be credited to an agency special account, for the benefit of and held in trust for persons placed in the custody of the Office or in residence at institutions or facilities maintained by the Office.

Added by Laws 1995, c. 352, § 93, eff. July 1, 1995. Amended by Laws 1996, c. 259, § 1, eff. Nov. 1, 1996; Laws 2002, c. 327, § 23, eff. July 1, 2002; Laws 2009, c. 234, § 18, emerg. eff. May 21, 2009. Renumbered from § 7302-6.1 of Title 10 by Laws 2009, c. 234, § 174, emerg. eff. May 21, 2009. Amended by Laws 2016, c. 234, § 3, eff. Nov. 1, 2016; Laws 2019, c. 475, § 15, eff. Nov. 1, 2019.

§10A-2-7-602. Methods of administration - Merit system - Employment of superintendent and other personnel - Criminal history records searches - Superintendent as guardian

A. The Office of Juvenile Affairs shall establish and maintain such methods of administration, including those necessary to establish and maintain a merit system of personnel administration, and shall promulgate such rules as it deems necessary for the efficient and effective operation of the juvenile institutions and facilities operated by the Office.

B. The Executive Director of the Office of Juvenile Affairs shall employ and fix the duties and compensation of a superintendent, and such other personnel as the Executive Director deems necessary, for each of the juvenile institutions and facilities operated by the Office of Juvenile Affairs. The Office shall promulgate, and in its hiring and employment practices, the Office shall adhere to, written minimum qualifications by position for personnel working with or around juveniles in said institutions and facilities. Such minimum qualifications shall be designed to assure that such personnel possess sufficient education, training, experience and background to provide adequate and safe professional care and services to said juveniles; and that the juveniles will not be exposed to abuse, deprivation, criminal conduct, or other unwholesome conditions attributable to employee incompetence or misconduct.

C. 1. The Office of Juvenile Affairs may directly request national criminal history records searches as defined by Section 150.9 of Title 74 of the Oklahoma Statutes from the Oklahoma State Bureau of Investigation for the purpose of investigating the criminal

history of any employee or applicant of the Office of Juvenile Affairs. The Oklahoma State Bureau of Investigation may charge a search fee as provided in Section 150.9 of Title 74 of the Oklahoma Statutes. The fee shall be deposited in the OSBI Revolving Fund.

2. The Board of Juvenile Affairs shall promulgate rules for the Office of Juvenile Affairs to obtain national criminal history records for personnel described in subsection B of this section, except that such rules may permit employment of applicants pending receipt of the results of national criminal history record searches.

D. The superintendent of a juvenile institution or facility shall be the guardian of the person of each juvenile in the institution or facility for the limited purpose of providing care and protection for any life-threatening situation that may arise.

Added by Laws 1995, c. 352, § 94, eff. July 1, 1995. Amended by Laws 2003, c. 213, § 3, eff. July 1, 2003; Laws 2009, c. 234, § 19, emerg. eff. May 21, 2009. Renumbered from § 7302-6.2 of Title 10 by Laws 2009, c. 234, § 174, emerg. eff. May 21, 2009. Amended by Laws 2016, c. 307, § 2, eff. Nov. 1, 2016.

§10A-2-7-603. Rules, policies and procedures required in facilities.

A. The Board of Juvenile Affairs shall promulgate written rules, outline policies and procedures governing the operation of those facilities operated by or through contract with the Office of Juvenile Affairs wherein juveniles may be housed. Said policies and procedures shall include, but not be limited to, standards of cleanliness, temperature and lighting, availability of medical and dental care, provision of food, furnishings, clothing and toilet articles, supervision, appropriate and permissible use of restriction and confinement, procedures for enforcing rules of conduct consistent with due process of law and visitation privileges.

B. The policies prescribed shall, at a minimum, ensure that:

1. A child shall not be punished by physical force, deprivation of nutritious meals, deprivation of family visits or solitary confinement;

2. A child shall have the opportunity to participate in physical exercise each day;

3. A child shall be allowed daily access to showers and the child's own clothing or individualized clothing which is clean. When a child is participating in an outdoor adventure program that takes the child away from the permanent facility, the child shall be provided with the opportunity to wash with soap and water daily;

4. A child shall have constant access to writing materials and may send mail without limitation, censorship or prior reading, and may receive mail without prior reading, except that mail may be opened in the presence of the child, without being read, to inspect for contraband, as defined by Section 21 of Title 57 of the Oklahoma Statutes or as otherwise defined by rules promulgated by the Board of

Juvenile Affairs, or to inspect for material harmful to minors, as defined by Section 1040.75 of Title 21 of the Oklahoma Statutes. Provided that, when based on legitimate facility interests of order and security as determined by the facility superintendent, mail addressed to a child or sent by a child may be read, censored, or rejected, except that mail addressed to a child from the attorney of the child or sent by the child to the attorney of said child shall not be opened, censored, or withheld in any way. The child shall be notified when incoming or outgoing mail is withheld in part or in full;

5. A child shall have reasonable opportunity to communicate and to visit with the child's family on a regular basis and to communicate with persons in the community;

6. A child shall have immediate access to medical care as needed and shall receive necessary behavioral health services;

7. A child in the custody or care of the Office of Juvenile Affairs shall be provided access to education including teaching, educational materials and books, provided, that such policies shall provide emphasis upon basic literacy skills, including but not limited to curricula requirements stressing reading, writing, mathematics, science, vocational-technical education, and other courses of instruction designed to assure that such children will be capable of being assimilated into society as productive adults capable of self-support and full participation;

8. A child shall have reasonable access to an attorney upon request;

9. A child shall be afforded a grievance procedure, including an appeal procedure;

10. The behavioral health needs and mental well-being of a child will be met, protected and served through provision of guidance, counseling and treatment programs, staffed by competent, professionally qualified persons, serving under the supervision of licensed psychologists, psychiatrists or licensed clinical social workers as defined by the regulations of the State Board of Licensed Social Workers; and

11. Upon leaving the custody of the Office of Juvenile Affairs, a child shall be afforded a copy of the literacy progress section of the individualized service plan developed for the child for continued use at the next school placement of the child.

C. Any contract or agreement between the Office of Juvenile Affairs and the Department of Mental Health and Substance Abuse Services for the care and treatment of children in the custody of the Office of Juvenile Affairs shall provide that the Department of Mental Health and Substance Abuse Services shall comply with the provisions of subsections A and B of this section and the provisions of Section 2-7-604 of this title.

Added by Laws 1995, c. 352, § 95, eff. July 1, 1995. Amended by Laws 1996, c. 259, § 2, eff. Nov. 1, 1996; Laws 1998, c. 244, § 3, eff. July 1, 1998; Laws 2000, c. 177, § 4, eff. July 1, 2000; Laws 2006, c. 320, § 16, emerg. eff. June 9, 2006; Laws 2007, c. 1, § 7, emerg. eff. Feb. 22, 2007; Laws 2009, c. 234, § 20, emerg. eff. May 21, 2009. Renumbered from § 7302-6.3 of Title 10 by Laws 2009, c. 234, § 174, emerg. eff. May 21, 2009.

NOTE: Laws 2006, c. 124, § 4 repealed by Laws 2007, c. 1, § 8, emerg. eff. Feb. 22, 2007.

§10A-2-7-604. Physical force, when authorized - Mechanical restraints - Chemical agents.

A. Use of physical force in institutions and other facilities operated by or through contract with the Office of Juvenile Affairs wherein children are housed shall be permitted only under the following circumstances:

1. For self-protection;
2. To separate juveniles who are fighting; or
3. To restrain juveniles in danger of inflicting harm to themselves or others; or
4. To restrain juveniles who have escaped or who are in the process of escaping.

B. When use of physical force is authorized, the least force necessary under the circumstances shall be employed.

C. Staff members of residential and nonresidential programs who are assigned to work with juveniles shall receive written guidelines on the use of physical force, and that, in accordance with staff disciplinary procedures, loss of employment may result if unauthorized use of physical force is proven.

D. Use of mechanical restraints in institutions and other facilities operated by or through contract with the Office of Juvenile Affairs or the Department of Mental Health and Substance Abuse Services wherein children are housed shall be minimal and shall be prohibited except as specifically provided for in the rules of the Office of Juvenile Affairs and Department of Mental Health and Substance Abuse Services.

E. Use of chemical agents and electroshock weapons in secure facilities operated by or through contract with the Office of Juvenile Affairs shall be minimal and shall be prohibited except as specifically provided for in the rules of the Office of Juvenile Affairs.

Added by Laws 1995, c. 352, § 96, eff. July 1, 1995. Amended by Laws 2009, c. 234, § 21, emerg. eff. May 21, 2009. Renumbered from § 7302-6.4 of Title 10 by Laws 2009, c. 234, § 174, emerg. eff. May 21, 2009. Amended by Laws 2010, c. 115, § 1, eff. Nov. 1, 2010.

§10A-2-7-605. Run away or AWOL from a staff secure or nonsecure placement.

A. Upon discovery that a juvenile or youthful offender has run away or is absent without leave (AWOL) from a staff-secure or nonsecure placement, the Office of Juvenile Affairs may notify any law enforcement officer or agency in this state who shall use any reasonable method to notify law enforcement agencies and personnel. All law enforcement agencies and personnel shall be authorized to apprehend and detain such juvenile or youthful offender.

B. 1. Running away or being absent without leave (AWOL) by a juvenile from a staff-secure or nonsecure placement shall be considered by the court of juvenile jurisdiction as a delinquent act.

2. Running away or being absent without leave (AWOL) by a youthful offender from a staff-secure or nonsecure placement may be considered by the court of juvenile jurisdiction as grounds for bridging the youthful offender to the adult system.

Added by Laws 1979, c. 257, § 7, eff. Oct. 1, 1979. Amended by Laws 1984, c. 99, § 1, eff. Nov. 1, 1984; Laws 1995, c. 352, § 97, eff. July 1, 1995. Renumbered from § 1146 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 2009, c. 234, § 22, emerg. eff. May 21, 2009. Renumbered from § 7302-6.5 of Title 10 by Laws 2009, c. 234, § 174, emerg. eff. May 21, 2009. Amended by Laws 2010, c. 397, § 2, emerg. eff. June 8, 2010.

§10A-2-7-606. Central Oklahoma Juvenile Center - Supervision, management and control.

A. The Office of Juvenile Affairs shall have the supervision, management, operation and control of the institution for children located at Tecumseh, formerly known and designated as Girls' Town and now known as Central Oklahoma Juvenile Center, and all property, equipment and supplies related thereto.

B. The Central Oklahoma Juvenile Center shall maintain facilities and bed-space capacity for programs that are consistent with providing statewide juvenile justice and delinquency prevention services.

C. It shall be the duty of the State Fire Marshal and the State Commissioner of Health, to cause regular, periodic, not less than quarterly, unannounced inspections of said institution, utilizing adequately trained and qualified inspection personnel, to determine and evaluate conditions and programs being maintained and carried on at said institution in their respective areas of agency jurisdiction. Such inspections shall include, but not be limited to, the following: compliance with minimum fire, life and health safety standards; compliance with minimum standards governing general sanitation of the institution, with particular emphasis upon food storage, preparation, serving and transportation, respectively. Reports of such inspections will be made in writing, itemizing and identifying any deficiencies

and recommending corrective measures, and shall be filed with the Board of Juvenile Affairs, the Executive Director of the Office of Juvenile Affairs, the Attorney General, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Office of Juvenile System Oversight and the Oklahoma Commission on Children and Youth. The Office of Juvenile Affairs shall file copies of the reports of the inspections and recommendations of the accrediting agencies listed in subsection D of this section with the Office of Juvenile System Oversight.

D. The Office of Juvenile Affairs is authorized and directed to establish, subject to the limits of funds available therefor, a diversity of placement alternatives for children committed to the custody of the Office including, but not limited to, foster family homes, foster family group homes, and group homes. All child care services and facilities operated by the Office shall be accredited by the American Correctional Association, the Joint Commission on Accreditation of Hospitals or the Child Welfare League of America, as appropriate for the service or facility. The Office may directly contract for accreditation fees, training or training conferences with the organization accrediting the service or facility as required by this subsection.

Added by Laws 1968, c. 282, § 401, eff. Jan. 13, 1969. Amended by Laws 1982, c. 140, § 1, emerg. eff. April 9, 1982; Laws 1982, c. 312, § 32, operative July 1, 1982; Laws 1986, c. 184, § 3, emerg. eff. May 20, 1986; Laws 1992, c. 299, § 16, eff. July 1, 1992; Laws 1994, c. 290, § 48, eff. July 1, 1994; Laws 1995, c. 352, § 98, eff. July 1, 1995. Renumbered from § 1401 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1997, c. 293, § 9, eff. July 1, 1997; Laws 2006, c. 124, § 5, eff. Nov. 1, 2006; Laws 2009, c. 234, § 23, emerg. eff. May 21, 2009. Renumbered from § 7302-6.6 of Title 10 by Laws 2009, c. 234, § 174, emerg. eff. May 21, 2009. Amended by Laws 2012, c. 304, § 44.

§10A-2-7-607. Lloyd E. Rader Children's Center - Administration and control.

The official name and designation of the center for children situated at Sand Springs, Oklahoma, shall be Lloyd E. Rader Children's Center. The supervision, management, operation and control of the Center and all property, records, equipment and supplies related thereto shall be the responsibility of the Office of Juvenile Affairs.

Added by Laws 1972, c. 38, § 1, emerg. eff. March 7, 1972. Renumbered from § 301.1 of Title 56 by Laws 1982, c. 312, § 48, emerg. eff. May 28, 1982. Amended by Laws 1992, c. 299, § 19, eff. July 1, 1992; Laws 1995, c. 352, § 99, eff. July 1, 1995. Renumbered from § 1407 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 2009, c. 234, § 24, emerg. eff. May 21, 2009.

Renumbered from § 7302-6.7 of Title 10 by Laws 2009, c. 234, § 174, emerg. eff. May 21, 2009.

§10A-2-7-608. Expansion of preadjudicatory secure detention beds - Responsibility for regional juvenile facility in southwestern part of state.

A. Beginning July 1, 1995, the Office of Juvenile Affairs shall oversee the expansion of the number of preadjudicatory secure detention beds available in this state. It is the intent of the Legislature to establish detention beds on a geographic basis throughout the state in order to provide more accessibility to services for all regions of the state. The beds established by this subsection shall be established and operated in accordance with Section 2-3-103 of this title.

B. Effective July 1, 1995, the responsibilities for establishing and operating a regional juvenile facility in the southwestern part of the state shall be transferred to the Office of Juvenile Affairs. The facility shall include six transitional beds and seventy medium secure beds for such programs as the Office of Juvenile Affairs determines will most appropriately and effectively provide required services; provided, no more than thirty-two beds shall be used for any one type of program. It is the intent of the Legislature that the Office of Juvenile Affairs locates an existing facility that can be remodeled and used for this purpose.

C. Beginning July 1, 1998, detention beds constructed and operated by a county solely through revenues from county sources shall be exempt from the provisions of the State Plan for the Establishment of Juvenile Detention Services adopted pursuant to subsection D of Section 2-3-103 of this title.

D. The Board of Juvenile Affairs shall promulgate rules to implement the provisions of this act.

Added by Laws 1994, c. 290, § 11, eff. July 1, 1994. Amended by Laws 1995, c. 352, § 100, eff. July 1, 1995. Renumbered from § 1507.8 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1997, c. 293, § 10, eff. July 1, 1997; Laws 1998, c. 34, § 1, eff. Nov. 1, 1998; Laws 1999, c. 365, § 4, eff. Nov. 1, 1999; Laws 2009, c. 234, § 25, emerg. eff. May 21, 2009. Renumbered from § 7302-6.8 of Title 10 by Laws 2009, c. 234, § 174, emerg. eff. May 21, 2009. Amended by Laws 2016, c. 67, § 3, eff. Nov. 1, 2016.

§10A-2-7-609. Facilities and residential programs - Legislative intent.

It is the intent of the Legislature that the facilities and residential programs established or contracted by the Office of Juvenile Affairs affirm the dignity of self and respect for others; promote the value of education, work, and self-discipline; and

develop useful skills and abilities that can be applied when the juvenile is reintegrated into the community.

Added by Laws 1994, c. 290, § 12, eff. July 1, 1994. Amended by Laws 1995, c. 352, § 101, eff. July 1, 1995. Renumbered from § 1507.9 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1997, c. 293, § 11, eff. July 1, 1997; Laws 1999, c. 365, § 5, eff. Nov. 1, 1999; Laws 2001, c. 357, § 1, eff. July 1, 2001; Laws 2006, c. 124, § 6, eff. Nov. 1, 2006; Laws 2009, c. 234, § 26, emerg. eff. May 21, 2009. Renumbered from § 7302-6.9 of Title 10 by Laws 2009, c. 234, § 174, emerg. eff. May 21, 2009.

§10A-2-7-610. Phil Smalley Children's Unit of Oklahoma Youth Center - Designation as Phil Smalley Center.

The official name and designation of the facility located at Norman, Oklahoma, formerly known and designated as the Phil Smalley Children's Unit of the Oklahoma Youth Center, shall be the Phil Smalley Center. The supervision, management, operation and control of the Center and all property, equipment and supplies related thereto shall be the responsibility of the Office of Juvenile Affairs, except as provided for in interagency agreements between the Department of Mental Health and Substance Abuse Services and the Office of Juvenile Affairs.

Added by Laws 1998, c. 268, § 14, eff. July 1, 1998. Amended by Laws 2009, c. 234, § 27, emerg. eff. May 21, 2009. Renumbered from § 7302-6.10 of Title 10 by Laws 2009, c. 234, § 174, emerg. eff. May 21, 2009.

§10A-2-7-611. Secure facilities - Certification - Violations.

A. For purposes of this section, "electronic communication" means any transfer of signs, signals, writings, images, sounds, data, or intelligence of any nature transmitted in whole or part by a wire, radio, electromagnetic, photo-electronic, or photo-optical system, and includes, but is not limited to, the transfer of that communication through the Internet.

B. 1. The Office of Juvenile Affairs shall certify all secure facilities, including secure facilities collocated with adult facilities or juvenile detention facilities. Such collocated facilities shall meet applicable criteria of the federal Juvenile Justice Delinquency Prevention Act for collocation. To be certified, a secure facility shall be required to meet standards for certification promulgated by the Board of Juvenile Affairs.

2. Any person, including a resident of the facility, who knowingly, willfully and without authority brings into or has in his or her possession in any certified secure facility or certified juvenile detention facility any gun, knife, bomb or other dangerous instrument, any controlled dangerous substance as defined by Section 2-101 et seq. of Title 63 of the Oklahoma Statutes, any intoxicating

beverage or low-point beer as defined by Sections 163.1 and 163.2 of Title 37 of the Oklahoma Statutes, any cellular phone or electronic device capable of sending or receiving any electronic communication, money, or financial documents for a person other than the juvenile or youthful offender or relative of the juvenile or youthful offender, shall be guilty of a felony and is subject to imprisonment in the custody of the Department of Corrections for not less than one (1) year or more than five (5) years, or a fine of not less than One Hundred Dollars (\$100.00) or more than One Thousand Dollars (\$1,000.00), or both such fine and imprisonment.

C. Any person, including a resident of the facility, who knowingly, willfully and without authority brings into or has in his or her possession in any certified secure facility or certified juvenile detention facility any cigarettes, cigars, snuff, chewing tobacco, or any other form of tobacco product shall, upon conviction, be guilty of a misdemeanor punishable by imprisonment in the county jail not to exceed one (1) year, or by a fine not exceeding Five Hundred Dollars (\$500.00), or by both such fine and imprisonment. Added by Laws 2009, c. 167, § 2, eff. Nov. 1, 2009. Amended by Laws 2011, c. 365, § 2, emerg. eff. May 26, 2011.

NOTE: Editorially renumbered from Title 10, §7302-6.11, to provide consistency in numbering.

§10A-2-7-612. Office of Juvenile Affairs - Sale of surplus real estate.

A. The Office of Juvenile Affairs may sell real estate owned by the State of Oklahoma or the Office of Juvenile Affairs that is surplus to its use under the jurisdiction of the Office of Juvenile Affairs located within LeFlore County and situated within Talihina.

B. The Office of Juvenile Affairs shall not be subject to the provisions of Section 129.4 of Title 74 of the Oklahoma Statutes for the sale. All monies received from the sale of the property, except those monies necessary to pay the expenses incurred pursuant to the sale, shall be deposited in the Office of Juvenile Affairs Revolving Fund 200 ("200 Fund"). Revenue derived from such real estate sale deposited to the fund shall be utilized for the benefit of the Office of Juvenile Affairs as necessary to perform the duties imposed upon the Office of Juvenile Affairs by law. Such real estate sale shall not be subject to the provisions of Section 456.7 of Title 74 of the Oklahoma Statutes.

Added by Laws 2010, c. 402, § 1, eff. July 1, 2010.

§10A-2-7-613. Office of Juvenile Affairs - Foster care.

A. The Office of Juvenile Affairs shall establish a program of foster care for children in the custody of the Office of Juvenile Affairs, and in implementing the program of foster care, shall:

1. Recruit foster families for children in the custody of the Office of Juvenile Affairs;
2. Contract with foster parents and child-placing agencies to provide foster care services to children within the custody of the Office of Juvenile Affairs;
3. Exercise supervision over all foster placements with whom the Office of Juvenile Affairs has a contract for foster care services;
4. Establish rules and standards for providing foster care services in addition to those required by the Oklahoma Child Care Facilities Licensing Act;
5. Require initial and ongoing foster parent training and education programs; and
6. Establish a grievance procedure in accordance with rules promulgated by the Board of Juvenile Affairs, including a statement of foster parent rights, for foster parents with whom the Office of Juvenile Affairs contracts.

B. The Office of Juvenile Affairs shall not be liable for any costs or expenses expended voluntarily by a foster parent for a foster child which are in excess of the funds authorized for providing foster care services to the foster child.  
Added by Laws 2013, c. 129, § 1, eff. July 1, 2013.

§10A-2-7-614. Foster care - Requirement of licensing standards.

A. Except as otherwise provided by this section, no child in the custody of the Office of Juvenile Affairs shall be placed with any foster placement unless the foster placement meets licensing standards as required by rules promulgated by the Board of Juvenile Affairs and the Oklahoma Child Care Facilities Licensing Act and is otherwise approved for foster care by the Office of Juvenile Affairs for children within its custody.

B. Except as otherwise provided by this section, no person shall receive a child for foster care or provide foster care services to a child unless such person meets licensing standards as required by the Oklahoma Child Care Facilities Licensing Act and rules promulgated by the Board of Juvenile Affairs, and is otherwise approved by the Office of Juvenile Affairs for children within its custody.  
Added by Laws 2013, c. 129, § 2, eff. July 1, 2013. Amended by Laws 2014, c. 67, § 1, eff. Nov. 1, 2014.

§10A-2-7-615. Foster care - Contract requirements.

A. The Office of Juvenile Affairs shall enter into a written contract with the foster care placement provider. The contract shall provide, at a minimum:

1. That the Office of Juvenile Affairs shall have access at all times to the child and to the foster placement;
2. A listing of any specific requirements, specific duties or restrictions in providing foster care services;

3. That any foster child shall have access to and be accessible by any court-appointed special advocate for the foster child and the foster child's attorney;

4. That any foster care placement provider shall comply with performance standards required pursuant to the Oklahoma Child Care Facilities Licensing Act and rules promulgated by the Board of Juvenile Affairs;

5. Information regarding the amount of payment to be made for foster care services, including but not limited to a description of the process involved in receiving payment, including projected time frames, information related to reimbursements for eligible costs and expenses for which the foster parent may be reimbursed and any information concerning the accessibility and availability of funds for foster parents;

6. Except as provided in this section, the Office of Juvenile Affairs may remove a child in its custody from a foster placement whenever the agency determines that removal is in the best interests of the child or consistent with the state's interest in the protection of the public; and

7. Such other information required by the Office of Juvenile Affairs.

B. The Office of Juvenile Affairs shall provide the following information to the foster parent at the time of placement, along with a copy of the written contract required pursuant to subsection A of this section:

1. The names and telephone numbers of the child's caseworkers;

2. A copy of applicable policy and procedures of the Office of Juvenile Affairs as pertaining to placement operations as established by the Office of Juvenile Affairs;

3. The name and telephone number of any foster parent association in the county of residence of the foster parent; and

4. A copy of the statement of foster parent rights.

Added by Laws 2013, c. 129, § 3, eff. July 1, 2013. Amended by Laws 2014, c. 67, § 2, eff. Nov. 1, 2014.

§10A-2-7-616. Board of Juvenile Affairs - Charter school

A. For the purposes of establishing and operating a charter school, pursuant to the provisions of Section 3-130 et seq. of Title 70 of the Oklahoma Statutes, the Board of Juvenile Affairs may serve as the governing body of the charter school and may take any action necessary to serve in such capacity and in accordance with rules of the State Board of Education. The Board of Juvenile Affairs may promulgate rules as necessary for the establishment and operation of such charter school and shall establish policies and provide oversight for any such charter school.

B. The Executive Director of the Office of Juvenile Affairs shall provide for the administration and operation of any charter school established and operated by the Office of Juvenile Affairs.

C. The Executive Director of the Office of Juvenile Affairs may employ instructional and administrative personnel necessary for the operation of a charter school and may contract with such personnel for the terms and conditions of their employment or for the services provided. Instructional and administrative personnel employed by the Office of Juvenile Affairs shall be in the unclassified service. Such personnel shall be eligible for membership or participation in the Teachers' Retirement System of Oklahoma.

D. To implement the provisions of this section, the Office of Management and Enterprise Services shall have the authority to exempt the Office of Juvenile Affairs from specific statutes that are in conflict with requirements of operating a charter school. The Office of Management and Enterprise Services shall take any action necessary to assist the Office of Juvenile Affairs in operating a charter school, including but not limited to:

1. Establishing a special agency account; and
2. Authorizing a surety bond as required by Section 5-116a of Title 70 of the Oklahoma Statutes.

Added by Laws 2014, c. 201, § 1, emerg. eff. April 29, 2014. Amended by Laws 2016, c. 232, § 1, eff. July 1, 2016.

§10A-2-7-617. Certification for secure detention center - Criminal history records search

A. Prior to the issuing by the Office of Juvenile Affairs a certification to any person or entity for a secure detention center, municipal juvenile facility, community intervention center or secure facility, such persons or entities shall have a national criminal history records search conducted pursuant to paragraph 12 of subsection A of Section 404.1 of Title 10 of the Oklahoma Statutes. Such persons or entities shall include any:

1. Operators and responsible entities;
2. Individual employee or applicant; or
3. Employee or individual allowed unsupervised access to children, including contract employees and volunteers.

B. The Oklahoma State Bureau of Investigation may charge a search fee as provided in Section 150.9 of Title 74 of the Oklahoma Statutes. The fee shall be deposited in the OSBI Revolving Fund. The fee shall be paid for by the persons or entities identified in subsection A of this section.

C. The Office of Juvenile Affairs and the Oklahoma State Bureau of Investigation are authorized to enter into an agreement pursuant to the Interlocal Cooperation Act, Section 1001 et seq. of Title 74 of the Oklahoma Statutes, to implement the provisions of this

section, including the transfer of funds to offset the cost associated with national criminal history records searches.

D. The Board of Juvenile Affairs may promulgate rules to implement the provisions of this act.

Added by Laws 2016, c. 307, § 3, eff. Nov. 1, 2016.

§10A-2-7-618. Construction strategy for campus modifications - Best-value option.

A. It is the intent of the State of Oklahoma for the Office of Juvenile Affairs (OJA) to plan, develop, redevelop and occupy campus modifications to serve Oklahoma youth in need of secure care and specialty residential services. In furtherance of this intent, OJA shall plan and execute a construction strategy through a best-value analysis of two financing sources. The Office of Management and Enterprise Services (OMES) and the Commissioners of the Land Office (CLO) are authorized to assist OJA in assessing the best option and proceeding with necessary steps. OJA is authorized to pursue one of these two options based upon the input from the OJA governing board, OMES and the CLO.

B. The option that is determined to be best value for the State of Oklahoma pursuant to subsection C of this section will be selected and the authorization for the other financing strategy shall not be operative.

C. Not later than March 31, 2018, or one hundred eighty (180) days from such date if the provisions of this act become effective as law later than July 1, 2017, pursuant to recommendations for the best-value option agreed upon by a majority vote of the governing board of OJA, a majority vote of the Commissioners of the Land Office and the agreement of the Director of the Office of Management and Enterprise Services, a memorandum reflecting the decision of the participating agencies shall be transmitted to the Governor, the Speaker of the Oklahoma House of Representatives and the President Pro Tempore of the Oklahoma State Senate. If the best-value option selected is for the issuance of obligations by the Oklahoma Capitol Improvement Authority pursuant to the provisions of Section 4 of this act, a copy of the signed and executed memorandum shall be transmitted to the members of the governing board of the Oklahoma Capitol Improvement Authority. If the best-value option selected does not require the issuance of obligations by the Oklahoma Capitol Improvement Authority, the provisions of Section 4 of this act shall not be operative and the Oklahoma Capitol Improvement Authority shall not have the power or legal authority to issue any obligations pursuant to the provisions of Section 4 of this act.

Added by Laws 2017, c. 337, § 1, eff. July 1, 2017.

§10A-2-7-619. Public/private partnership - Authority to sell OJA campus property.

If the best-value option for the state is to enter into an agreement with the Commissioners of the Land Office (CLO) and a public/private partnership for the development of the designated campus then the Office of Juvenile Affairs (OJA) is authorized to sell a to-be-determined amount of property on the OJA campus of the Central Oklahoma Juvenile Center to the CLO. The amount of property to be transferred will be determined by the footprint of the proposed construction/refurbishment. In exchange for the property, OJA will receive from the CLO fair market value for the land. The CLO, on behalf of OJA, will negotiate a public/private partnership for the construction of juvenile justice assets. The CLO will develop a Request For Proposal (RFP) to select a private development company to construct the necessary facilities for the operation of a juvenile justice secure care facility. OMES will negotiate on behalf of OJA the necessary lease and sublease terms for the continued operation of the facility for up to twenty-five (25) years. It is the intent of the Legislature to make appropriations as required in order for the Office of Juvenile Affairs to make required lease and sublease payments related to real property or improvements or both, as provided by this act.

Added by Laws 2017, c. 337, § 2, eff. July 1, 2017.

§10A-2-7-620. Plans for repurposing the campuses of the Southwest Oklahoma Juvenile Center and the Oklahoma Juvenile Center for Girls.

Concurrent with the Office of Juvenile Affairs (OJA) campus consolidation process as contemplated by this act, OJA is directed to develop, in collaboration with other executive branch agencies and such other entities as OJA deems necessary in furtherance of the requirements of this act, plans for the repurposing of the Southwest Oklahoma Juvenile Center and the Oklahoma Juvenile Center for Girls campuses. The agency shall provide a report to the Governor, the Speaker of the Oklahoma House of Representatives and the President Pro Tempore of the Oklahoma State Senate on recommendations for future use of those facilities not later than March 31, 2018, or one hundred eighty (180) days from such date if the provisions of this act become effective as law later than July 1, 2017.

Added by Laws 2017, c. 337, § 3, eff. July 1, 2017.

§10A-2-7-701. Short title - Purpose - Intent.

A. Sections 2-7-701 through 2-7-705 of this title shall be known and may be cited as the "Delinquency and Youth Gang Intervention and Prevention Act".

B. The Legislature recognizes that the economic cost of crime to the state and communities continues to drain existing resources, and the cost to victims, both economic and psychological, is traumatic and tragic. The Legislature further recognizes that many adults in the criminal justice system were once delinquents in the juvenile

justice system. The Legislature also recognizes that the most effective juvenile delinquency programs are programs that prevent children from entering the juvenile justice system, meet local community needs, and have substantial community involvement and support. Therefore, it is the belief of the Legislature that one of the best investments of scarce resources available to combat crime is to counteract the negative social and economic factors that contribute to criminal and delinquent behavior by engaging youth who are determined to have the highest risk of involvement with gangs or delinquent behaviors or live in at-risk neighborhoods and communities in positive programs and opportunities at the local, neighborhood and community level.

C. For the purpose of reducing the likelihood of later or continued involvement in criminal or delinquent activities, the intent of the Legislature in enacting the Delinquency and Youth Gang Intervention and Prevention Act is to provide programs for adjudicated delinquents and highest risk children and their families who live in at-risk neighborhoods and communities, as defined in Section 2-7-702 of this title, and to aid all communities in developing delinquency and gang intervention and prevention programs and activities.

Added by Laws 1994, c. 290, § 13, eff. July 1, 1994. Amended by Laws 1995, c. 352, § 102, eff. July 1, 1995. Renumbered from § 1507.10 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 2004, c. 421, § 8, emerg. eff. June 4, 2004; Laws 2009, c. 234, § 28, emerg. eff. May 21, 2009. Renumbered from § 7302-7.1 of Title 10 by Laws 2009, c. 234, § 175, emerg. eff. May 21, 2009.

§10A-2-7-702. Definitions.

For the purposes of the Delinquency and Youth Gang Intervention and Prevention Act:

1. "At-risk neighborhoods and communities" means residential and business areas within a specific political subdivision with a history of assault or battery offenses, shootings or firearm-related offenses, substance abuse-related offenses, property and theft-related offenses, and known gang activity that are documented by local law enforcement agencies, and an incidence of reported juvenile crime or referrals for juvenile court intakes, or some combination of both such incidence and referrals as approved by the Office of Juvenile Affairs and substantiated by local law enforcement agencies, that is significantly higher than the statewide statistical mean for such offenses, incidence, referrals or combination;

2. "Children at highest risk of involvement with gangs or delinquent behaviors" means:

- a. children and their family members living in at-risk neighborhoods and communities as defined in this section,

- b. children living with family members who are gang members or associate with gang members,
- c. children living with family members who have been adjudicated or convicted of a criminal offense,
- d. children adjudicated delinquent and their family members, or
- e. children who use alcohol or controlled substances or who have behavioral problems in school, with peers, family members or authority figures, or some combination thereof;

3. "Delinquency and gang intervention and prevention programs and activities" includes but is not limited to the following for participating youth: Intensive school and school-related programs, such as tutoring and other educational services, vocational training and counseling, employment services, recreational opportunities, and counseling services, such as family counseling, mental health counseling, substance abuse outpatient treatment, education programs, and programs and services involving the family members of participating youth; and

4. "Family members" means children, siblings, parents and other persons living in the immediate household.  
Added by Laws 1994, c. 290, § 14, eff. July 1, 1994. Amended by Laws 1995, c. 352, § 103, eff. July 1, 1995. Renumbered from § 1507.11 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 2004, c. 421, § 9, emerg. eff. June 4, 2004; Laws 2009, c. 234, § 29, emerg. eff. May 21, 2009. Renumbered from § 7302-7.2 of Title 10 by Laws 2009, c. 234, § 175, emerg. eff. May 21, 2009.

§10A-2-7-703. Office of Juvenile Affairs - Delinquency prevention, early intervention programs - Eligibility criteria.

A. From funds appropriated for the Delinquency and Youth Gang Intervention and Prevention Act or otherwise available for that purpose, the Office of Juvenile Affairs shall:

- 1. Issue requests for proposals or enter into agreements pursuant to the Interlocal Cooperation Act and contract for delinquency and gang intervention and prevention programs for children and their family members who live in at-risk neighborhoods and communities, as defined by Section 2-7-702 of this title;
- 2. Provide information and technical assistance to individuals and entities receiving contracts pursuant to the Delinquency and Youth Gang Intervention and Prevention Act, schools, neighborhood and community organizations, and agencies within the children and youth service system, as that term is defined in the Juvenile Offender Tracking Program, for the purpose of assisting such agencies in making application for federal, state and private grants for delinquency and gang intervention and prevention programs; and

3. Coordinate efforts among the Office of Juvenile Affairs, Department of Human Services, State Department of Education, State Department of Health, Department of Mental Health and Substance Abuse Services, Oklahoma Arts Council, Oklahoma Commission on Children and Youth, the Oklahoma Health Care Authority, 4-H Clubs, Oklahoma Cooperative Extension Service and other organizations identified by the Office of Juvenile Affairs that provide services to children and youth on the creation of an out-of-school resource center subject to the availability of funds.

B. The Office of Juvenile Affairs, with the assistance of and information provided by the Oklahoma Commission on Children and Youth and the Oklahoma State Bureau of Investigation, shall establish criteria and procedures for:

1. Identifying at-risk neighborhoods and communities, as defined by Section 2-7-702 of this title, for the purposes of determining eligibility for any grants for at-risk areas available pursuant to the Delinquency and Youth Gang Intervention and Prevention Act; and

2. Determining eligibility of individuals and other organizations seeking other grants pursuant to the Delinquency and Youth Gang Intervention and Prevention Act.

The Oklahoma Commission on Children and Youth and the Oklahoma State Bureau of Investigation shall provide the Office of Juvenile Affairs with information and assistance, as requested by the Office, for the purpose of establishing the criteria required by this section.

Added by Laws 1994, c. 290, § 15, eff. July 1, 1994. Amended by Laws 1995, c. 352, § 104, eff. July 1, 1995. Renumbered from § 1507.12 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 2002, c. 413, § 2, eff. Nov. 1, 2002; Laws 2004, c. 421, § 10, emerg. eff. June 4, 2004; Laws 2009, c. 234, § 30, emerg. eff. May 21, 2009. Renumbered from § 7302-7.3 of Title 10 by Laws 2009, c. 234, § 175, emerg. eff. May 21, 2009.

§10A-2-7-704. Eligibility for contracts - Contract criteria - Duties of recipients.

A. The Office of Juvenile Affairs shall establish procedures and criteria for selecting and implementing program models and awarding contracts. The Board of Juvenile Affairs shall promulgate rules as necessary for the implementation of the Delinquency and Youth Gang Intervention and Prevention Act.

B. In order to be eligible for a contract in an at-risk neighborhood or community, as defined by Section 2-7-702 of this title, pursuant to the Delinquency and Youth Gang Intervention and Prevention Act the contract shall, at minimum:

1. Be made by an individual or organization, a neighborhood or community organization, a municipality or county or a municipal or county agency from the at-risk neighborhood or community. If a

school or local law enforcement agency is not a participant in the contract, the contract shall document and describe the active participation in and support of either the local school or local law enforcement agency in the program and activities for which the contract is submitted;

2. Be a program or activity for children at highest risk of involvement in gangs or delinquent behaviors, as defined by Section 2-7-702 of this title, and their family members;

3. Describe the respective roles and responsibilities for the administration and operation of the program and activities, including but not limited to the designation of the entity responsible for the receipt and expenditure of any funds awarded pursuant to the Delinquency and Youth Gang Intervention and Prevention Act;

4. Specifically identify the at-risk neighborhood or community where the programs and activities will be implemented and provide either statistical information concerning the at-risk area or a letter of support from a local school or local law enforcement agency;

5. Describe how the program will coordinate and cooperate with programs and services administered by the Office of Juvenile Affairs, the Department of Human Services, the State Department of Education, and other state or local agencies, such as law enforcement, courts and other agencies within the juvenile, children and youth service system; and

6. Provide the program and activities on-site in a school, community center, or other similar location within the identified at-risk neighborhood or community.

C. In order to be eligible for training or continuing education contracts or any other contracts pursuant to the Delinquency and Youth Gang Intervention and Prevention Act, the contract shall, at a minimum:

1. Describe the respective roles and responsibilities for the administration and operation of the training or activity, including but not limited to, the designation of the entity responsible for the receipt and expenditure of any funds awarded pursuant to the Delinquency and Youth Gang Intervention and Prevention Act; and

2. Describe how the training or activity will coordinate and cooperate with existing programs and services administered by the Office of Juvenile Affairs, the Department of Human Services, the State Department of Education, and other state or local agencies, such as law enforcement, courts and other agencies within the juvenile, children and youth service system.

D. Each entity receiving a contract pursuant to the Delinquency and Youth Gang Intervention and Prevention Act shall work with local community leaders, neighborhood associations, direct service providers, local school officials, law enforcement and other stakeholders to create a local youth and gang violence coordinating

council to help facilitate the implementation of the program. The entity shall also submit an annual evaluation report to the Office of Juvenile Affairs, by a date subsequent to the end of the contract period as established by the Office, documenting the extent to which the program objectives were met and any other information required by the Office.

Added by Laws 1994, c. 290, § 16, eff. July 1, 1994. Amended by Laws 1995, c. 352, § 105, eff. July 1, 1995. Renumbered from § 1507.13 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 2004, c. 421, § 11, emerg. eff. June 4, 2004; Laws 2007, c. 266, § 3, emerg. eff. June 4, 2007; Laws 2009, c. 234, § 31, emerg. eff. May 21, 2009. Renumbered from § 7302-7.4 of Title 10 by Laws 2009, c. 234, § 175, emerg. eff. May 21, 2009.

§10A-2-7-705. Responsibility for implementation and evaluation of act - Contracts with eligible entities - Outcome-based performance reports.

A. The Office of Juvenile Affairs shall have the responsibility for implementation and evaluation of the Delinquency and Youth Gang Intervention and Prevention Act and any modifications thereto.

B. Any contract executed by the Office of Juvenile Affairs with an eligible entity on and after the effective date of this act for delinquency prevention and early intervention programs, subject to the Delinquency and Youth Gang Intervention and Prevention Act, shall require the eligible entity to prepare and submit to the Office, in a manner prescribed by the Office, an outcome-based performance report including, but not limited to, the following:

1. A description of the target population, service eligibility criteria, and risk factors;
2. A description of program services, the number of clients referred each year, the number of clients served each year, and the number of clients discharged each year;
3. The average cost per client participating in program services each year; and
4. Performance measures referencing service completion and recidivism which employ uniform definitions developed by the Office.

C. The Office of Juvenile Affairs shall submit to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Governor by January 15 of each year, an annual report, including a summary detailing the following information derived from the outcome-based performance reports submitted by the eligible entities pursuant to the provisions of subsection A of this section and other information available to the Office:

1. Total amount of funds per state fiscal year expended for the delinquency prevention programs subject to the Delinquency and Youth Gang Intervention and Prevention Act;

2. Average expenditures per juvenile during the most recent state fiscal year;

3. Analyses of the nature and effectiveness of gang-related delinquency prevention and early intervention programs provided by eligible entities pursuant to contracts;

4. Effectiveness of each of the programs provided by the eligible entities;

5. Recommendations regarding distribution of the funds based upon the effectiveness of the programs provided by the eligible entities; and

6. Any other information or recommendations deemed necessary by the Board of Juvenile Affairs.

Added by Laws 1994, c. 290, § 17, eff. July 1, 1994. Amended by Laws 1995, c. 352, § 106, eff. July 1, 1995. Renumbered from § 1507.14 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 2004, c. 421, § 12, emerg. eff. June 4, 2004; Laws 2009, c. 234, § 32, emerg. eff. May 21, 2009. Renumbered from § 7302-7.5 of Title 10 by Laws 2009, c. 234, § 175, emerg. eff. May 21, 2009.

§10A-2-7-801. Juvenile Offender Victim Restitution Work Program.

A. There is hereby created a program of juvenile crime victim restitution to be administered by the Office of Juvenile Affairs. The program shall be known as the "Juvenile Offender Victim Restitution Work Program".

B. The Board of Juvenile Affairs shall promulgate rules necessary for the implementation of the provisions of this section. Until the rules are promulgated by the Board, the rules promulgated by the Commission for Human Services shall remain in effect.

C. The programs developed under the provisions of this section shall provide restitution to a victim by requiring the juvenile to work or provide a service for the victim, or to make monetary restitution to the victim from money earned from such a program. Restitution shall be made through the employment of the juvenile in work programs. The supervised work or service program shall not deprive the juvenile of schooling which is appropriate to the age, need, and specific rehabilitative goals of the juvenile. The program shall not prohibit the juvenile from fulfilling restitution obligations through jobs the juvenile has found, by performing volunteer services for the community, or by doing work for the victim.

D. Agreements for participation in the programs under this section may include restitution not in excess of actual damages caused by the juvenile which shall be paid from the net earnings of the juvenile received through participation in a constructive program of service or education acceptable to the juvenile, the victim, the Office of Juvenile Affairs, the district attorney and/or the district court. During the course of such service, the juvenile shall be paid

no less than the federal minimum wage. In considering a restitution agreement, the Office of Juvenile Affairs, the district attorney and/or the district court shall take into account the age, physical and mental capacity of the juvenile. The service shall be designed to relate to the juvenile a sense of responsibility for the injuries caused to the person or property of another. If a petition has not been filed, the district attorney shall approve the nature of the work, the number of hours to be spent performing the assigned tasks and shall further specify that as part of a plan of treatment and rehabilitation, that seventy-five percent (75%) or more of the net earnings of the juvenile shall be used for restitution in order to provide positive reinforcement for the work performed. If a petition has been filed, the district court may approve the nature of the work, the number of hours to be spent performing the assigned tasks and may further specify that as part of a plan of treatment and rehabilitation, that seventy-five percent (75%) or more of the net earnings of the juvenile shall be used for restitution.

E. The Office of Juvenile Affairs may enter into contracts with private service providers for implementation of the program required by this section. The Office may require, as a condition of the contract, that the service provider pay restitution directly to the victim or victims and pay any amounts due to the juvenile directly to the juvenile. The records of any service provider that contracts with the Office pursuant to this section shall be subject to inspection by any employee of the Office of Juvenile Affairs designated by the Executive Director of the Office of Juvenile Affairs. The Office of Juvenile Affairs may subsidize the employment of a juvenile for the purposes of participation in a work program as provided by this section.

F. Any person, entity or political subdivision who is an employer of juveniles or recipient of services from a juvenile, pursuant to an agreement with the Juvenile Offender Victim Restitution Work Program shall not be liable for ordinary negligence for:

1. Damage to the property of the juvenile or injury to the juvenile except as to the liability established by the Workers' Compensation Act if the juvenile is covered thereunder; or

2. Damage to any property or injury to any person which results from the services of the juvenile pursuant to this section.

Added by Laws 1991, c. 296, § 1, eff. July 1, 1991. Amended by Laws 1995, c. 352, § 108, eff. July 1, 1995. Renumbered from § 1160.1 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 2009, c. 234, § 33, emerg. eff. May 21, 2009. Renumbered from § 7302-8.1 of Title 10 by Laws 2009, c. 234, § 176, emerg. eff. May 21, 2009.

§10A-2-7-802. Juvenile Justice Public Works Program.

A. This act shall be known and may be cited as the "Juvenile Justice Public Works Act".

B. As used in the Juvenile Justice Public Works Act:

1. "Director" means the Director of the Office of Juvenile Affairs;

2. "Public works project" means a project that has been determined by the Director of the Office of Juvenile Affairs to be necessary for the public well-being and conducive to rehabilitation and the reduction of recidivism among participating juveniles or youthful offenders; and

3. "Juvenile or youthful offender" means any person who is under the custody and control of the Office of Juvenile Affairs.

C. The Office of Juvenile Affairs shall establish and maintain the Juvenile Justice Public Works Program. The purpose of the Juvenile Justice Public Works Program shall be to:

1. Provide labor for community service projects in order to develop lands pursuant to public works projects;

2. Provide improvements and beautification to public lands and buildings; and

3. Reduce recidivism for juvenile or youthful offenders by aiding such individuals in transitioning between institutions and the community.

D. No juvenile or youthful offender shall be assigned to any public works project if the offender:

1. Is deemed by the Director to be a threat to public safety; or

2. Has escaped or attempted to escape from an institution or other placement within the last year.

E. The Board of Juvenile Affairs shall promulgate rules as necessary to implement the provisions of the Juvenile Justice Public Works Act. At a minimum, the rules shall provide guidelines that establish criteria for selection and assignment to the Juvenile Justice Public Works Program and the duties to be performed by the participants in the program.

F. The Juvenile Justice Public Works Act shall not be construed to restore, in whole or in part, the civil rights of any juvenile or youthful offender. No juvenile or youthful offender participating in the Juvenile Justice Public Works Program shall be considered an employee of the state or the Office of Juvenile Affairs, nor shall any such participant be subject to the provisions of the labor laws of this state. Any eligible juvenile or youthful offender assigned to the Juvenile Justice Public Works Program shall be exempt from the provisions of the Workers' Compensation Act.

G. 1. All state and local government agencies, nonprofit organizations, community service agencies, educational programs and other treatment programs are immune from liability for torts committed by or against any eligible juvenile or youthful offender assigned to the Juvenile Justice Public Works Program, except that

the Office of Juvenile Affairs shall provide basic or necessary medical and dental care to the juvenile or youthful offenders placed in the program in such instances.

2. Without waiving the immunity of the state, the Executive Director of the Office of Juvenile Affairs may authorize the repair or replacement of the personal property of a third party if the personal property is damaged or destroyed by a juvenile or youthful offender who is in the custody of the Office of Juvenile Affairs and while participating in the Juvenile Justice Public Works Program. Any personal property repaired or replaced shall be comparable in kind, quality and cost to the original property. Reimbursement shall not duplicate insurance coverage carried by the third party. Added by Laws 2009, c. 167, § 1, eff. Nov. 1, 2009.

NOTE: Editorially renumbered from Title 10, §7302-8.2, to provide consistency in numbering.

§10A-2-7-901. Juvenile Offender Tracking Program - Purpose.

A. There is hereby created the Juvenile Offender Tracking Program for the purpose of:

1. Establishing an accurate and accessible data base with information on juvenile offenders readily available to law enforcement agencies, juvenile court personnel, district attorneys, and others who require such information; and

2. Enhancing community control of crime through information sharing regarding juvenile offenders that can be used by patrol officers and criminal investigators for the early identification of offenders and assist in the reduction of crime.

B. Sections 2-7-901 through 2-7-905 of this title shall be known and may be cited as the "Juvenile Offender Tracking Program".

Added by Laws 1991, c. 296, § 1, eff. July 1, 1991. Amended by Laws 1995, c. 352, § 108, eff. July 1, 1995. Renumbered from § 1160.1 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 2009, c. 234, § 34, emerg. eff. May 21, 2009. Renumbered from § 7302-9.1 of Title 10 by Laws 2009, c. 234, § 177, emerg. eff. May 21, 2009.

§10A-2-7-902. Definitions.

As used in the Oklahoma Juvenile Code:

1. "Agencies and programs comprising the juvenile justice system" means:

- a. the courts, the District Attorneys Council and offices of the district attorneys, state and local law enforcement agencies, juvenile bureaus, the Department of Human Services, the Office of Juvenile Affairs, the Oklahoma Commission on Children and Youth, the Department of Corrections, the Oklahoma State Bureau of Investigation, any other state agency responsible for

the care, custody or supervision of youth alleged or adjudicated to be delinquent, and

- b. to the extent that they are responsible for the provision of services to youth alleged or adjudicated to be delinquent, including but not limited to educational, treatment or residential services, local school districts and technology center schools and other public and private agencies not otherwise specifically included in subparagraph a of this paragraph, comprising the "children and youth service system" as defined by Section 600 of Title 10 of the Oklahoma Statutes;

2. "Juvenile court personnel" means those persons responsible for juvenile court intake, probation and parole supervision and services to youth alleged or adjudicated to be delinquent;

3. "Juvenile Justice Information System" means the automated information system established by Section 2-7-905 of this title;

4. "Juvenile offender" means a delinquent child or juvenile as defined by Section 2-1-103 of this title; and

5. "Juvenile Offender Tracking Program" means the program of information, information sharing and case tracking established by Section 2-7-903 of this title.

Added by Laws 1991, c. 296, § 2, eff. July 1, 1991. Amended by Laws 1992, c. 299, § 12, eff. July 1, 1992; Laws 1995, c. 352, § 109, eff. July 1, 1995. Renumbered from § 1160.2 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1997, c. 293, § 12, eff. July 1, 1997; Laws 2001, c. 33, § 11, eff. July 1, 2001; Laws 2009, c. 178, § 2; Laws 2009, c. 234, § 35, emerg. eff. May 21, 2009. Renumbered from § 7302-9.2 of Title 10 by Laws 2009, c. 234, § 177, emerg. eff. May 21, 2009.

§10A-2-7-903. Juvenile Offender Tracking Program - Components.

The Juvenile Offender Tracking Program shall include, but not be limited to:

1. The Juvenile Justice Information System pursuant to the provisions of Section 2-7-905 of this title; and

2. Specific procedures for identifying juvenile offenders for the purpose of communication between law enforcement and juvenile court personnel and others regarding said offenders.

Added by Laws 1991, c. 296, § 3, eff. July 1, 1991. Amended by Laws 1995, c. 352, § 110, eff. July 1, 1995. Renumbered from § 1160.3 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1997, c. 293, § 13, eff. July 1, 1997; Laws 2009, c. 234, § 36, emerg. eff. May 21, 2009. Renumbered from § 7302-9.3 of Title 10 by Laws 2009, c. 234, § 177, emerg. eff. May 21, 2009.

§10A-2-7-904. Implementation of Program - Duties of state and local agencies.

For the purpose of achieving full implementation of the Juvenile Offender Tracking Program, the Office of Juvenile Affairs, the juvenile bureaus, the District Attorney's Council, the Oklahoma State Supreme Court as authorized and directed by Section 2-7-203 of this title and Section 23 of Title 20 of the Oklahoma Statutes, the Oklahoma Commission on Children and Youth, the Oklahoma State Bureau of Investigation, local law enforcement agencies, and other agencies comprising the juvenile justice system shall:

1. Develop and implement the Juvenile Offender Tracking Program;
2. Develop and implement the Juvenile Justice Information System;
3. Adopt rules, policies, procedures, standards, protocols and guidelines, as appropriate, for the development and implementation of the Juvenile Offender Tracking Program and the Juvenile Justice Information System; and
4. Enter into contracts or interagency agreements under the Interlocal Cooperation Act, as appropriate for the purpose of implementing the Juvenile Offender Tracking Program and the Juvenile Justice Information System.

Added by Laws 1991, c. 296, § 4, eff. July 1, 1991. Amended by Laws 1992, c. 299, § 13, eff. July 1, 1992; Laws 1995, c. 352, § 111, eff. July 1, 1995. Renumbered from § 1160.4 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 1997, c. 293, § 14, eff. July 1, 1997; Laws 2009, c. 234, § 37, emerg. eff. May 21, 2009. Renumbered from § 7302-9.4 of Title 10 by Laws 2009, c. 234, § 177, emerg. eff. May 21, 2009.

§10A-2-7-905. Juvenile Justice Information System - Functions - Duties of state and local agencies - Plan for implementation.

A. For the purpose of information sharing and management of the Juvenile Offender Tracking Program, there is hereby created the Juvenile Justice Information System. The information system shall be an automated, data-based, system for tracking juvenile offenders from arrest through final closure of the case and shall include information provided by all of the components of the juvenile justice system in accordance with the provisions of the Juvenile Offender Tracking Program. The information system shall be fully integrated with other information systems related to services to children and youth and shall:

1. Be based upon the integration, utilization and modification, as necessary, of existing information systems;
2. Provide for the accuracy of the information and for the security of and limited access to the information;

3. Include case specific information, including client outcomes, and have the ability to monitor juveniles in the juvenile justice system; and

4. Be capable of providing management reports and information to the various components of the juvenile justice system, and of providing aggregate information necessary for planning, monitoring, evaluating and managing programs and services provided to youthful offenders as well as for system-wide analysis of the Juvenile Offender Tracking Program.

B. The Office of Juvenile Affairs, the juvenile bureaus, the Oklahoma State Bureau of Investigation, the Office of the Court Administrator, and other agencies and programs comprising the juvenile justice system, including but not limited to law enforcement and district attorneys, in accordance with guidelines established by the Juvenile Offender Tracking Program, shall jointly:

1. Identify information to be shared by agencies on a regular basis;

2. Develop procedures for processing case-profiles as cases move through agencies that come in contact with juvenile offenders;

3. Establish training programs in the use of the system;

4. Conduct a pilot project to test the system; and

5. At least annually, evaluate the plan for full statewide implementation of the Juvenile Justice Information System and submit any necessary modifications of the existing plan to the Juvenile Offender Tracking Program and to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and each agency affected by said plan.

Added by Laws 1991, c. 296, § 6, eff. July 1, 1991. Amended by Laws 1992, c. 299, § 15, eff. July 1, 1992; Laws 1995, c. 352, § 113, eff. July 1, 1995. Renumbered from § 1160.6 of Title 10 by Laws 1995, c. 352, § 199, eff. July 1, 1995. Amended by Laws 2009, c. 178, § 3; Laws 2009, c. 234, § 38, emerg. eff. May 21, 2009. Renumbered from § 7302-9.6 of Title 10 by Laws 2009, c. 234, § 177, emerg. eff. May 21, 2009.

§10A-2-8-101. Short title.

This act shall be known and cited as the "Juvenile Sex Offender Registration Act".

Added by Laws 2001, c. 341, § 1, eff. July 1, 2001. Amended by Laws 2009, c. 234, § 102, emerg. eff. May 21, 2009. Renumbered from § 7308-1.1 of Title 10 by Laws 2009, c. 234, § 191, emerg. eff. May 21, 2009.

§10A-2-8-102. Juvenile sex offender defined.

As used in this act, "juvenile sex offender" means a person who was not less than fourteen (14) years of age but who was less than

eighteen (18) years of age at the time the qualifying sex offense was committed and who:

1. On or after July 1, 2001, was adjudicated delinquent or a youthful offender for an action that would be an offense provided in Section 888, 1111, 1111.1, 1114 or 1115 of Title 21 of the Oklahoma Statutes, if committed by an adult;
  2. As of July 1, 2001, is serving formal probation or commitment to the custody of the Office of Juvenile Affairs as the result of adjudication for an action that would be an offense provided in Section 888, 1111, 1111.1, 1114 or 1115 of Title 21 of the Oklahoma Statutes, if committed by an adult;
  3. Was adjudicated delinquent in another state for an action that is substantially equivalent to an offense provided in Section 888, 1111, 1111.1, 1114 or 1115 of Title 21 of the Oklahoma Statutes, and is subject on or after July 1, 2001, to court jurisdiction in this state pursuant to the Interstate Compact on Juveniles; or
  4. Is required to register as a juvenile sex offender in another state for having committed a sex offense in that state regardless of the date of the offense or its adjudication.
- Added by Laws 2001, c. 341, § 2, eff. July 1, 2001. Amended by Laws 2002, c. 164, § 1, eff. July 1, 2002. Renumbered from § 7308-1.2 of Title 10 by Laws 2009, c. 234, § 191, emerg. eff. May 21, 2009.

§10A-2-8-103. Juvenile sex offender registry - Information included.

The Office of Juvenile Affairs shall establish and maintain a registry for juvenile sex offenders required by the court to register. The registry shall include fingerprints, photographs, and information collected from forms submitted and other communications relating to notice of duty to register, sex offender registration, and notice of change of name or address. Information in the juvenile sex offender registry is subject to release to law enforcement agencies and may be released to the public pursuant to court order as provided in Section 2-8-104 of this title.

Added by Laws 2001, c. 341, § 3, eff. July 1, 2001. Amended by Laws 2002, c. 164, § 2, eff. July 1, 2002; Laws 2009, c. 234, § 103, emerg. eff. May 21, 2009. Renumbered from § 7308-1.3 of Title 10 by Laws 2009, c. 234, § 191, emerg. eff. May 21, 2009.

§10A-2-8-104. Application register - Criteria for qualifying - Court order.

A. When a person meets the definition of a juvenile sex offender pursuant to Section 2-8-102 of this title, the district attorney may make an application to include the juvenile in the juvenile sex offender registry. Upon the application of the district attorney, the court shall appoint two persons who are qualified sex offender treatment professionals to evaluate the juvenile and report to the court on the treatment prognosis and likelihood that the juvenile

offender represents an ongoing serious or aggressive threat to the public or children under sixteen (16) years of age. One appointee shall be currently licensed as a physician or psychologist in Oklahoma with a minimum of two hundred (200) hours of clinical experience in juvenile sex offender treatment. Other criteria for qualifying as a sex offender treatment professional shall include, but not be limited to, current licensure as a medical or mental health professional with a minimum of two hundred (200) hours of clinical experience in juvenile sex offender treatment, or current licensure as a medical or mental health professional with a minimum of two (2) years' combined clinical experience in child abuse treatment, child or adolescent anger management treatment, juvenile delinquency or criminal behavior treatment, sexual abuse treatment, child or adolescent psychology, or therapeutic social work. A list of sex offender treatment professionals meeting the established criteria shall be provided to each district court by the Office of Juvenile Affairs. Where professionals are appointed to conduct an evaluation in such cases, the court may set reasonable compensation and order the payment out of the court fund. In the event two qualified sex offender treatment professionals are not available to the court to evaluate the juvenile sex offender, the Office of Juvenile Affairs may, at the court's request, select additional qualified sex offender treatment professionals employed by the agency to assist with the evaluation report.

B. The court shall, after consideration of the evaluation report required by subsection A of this section, make a finding of whether the juvenile offender represents an ongoing serious or aggressive threat to the public or children under sixteen (16) years of age. If the court finds the juvenile represents such threat, the court shall order the juvenile to register on the juvenile sex offender registry as provided in this act.

C. The court, in its discretion, may order information on any juvenile sex offender released from the juvenile sex offender registry to any person or to the public at large when the evaluation report considered by the court indicates a likelihood of an ongoing serious or aggressive threat to the public or children under sixteen (16) years of age. If the court orders release of this information to the public at large, it shall promptly be made available for public inspection or copying pursuant to rules promulgated by the Office of Juvenile Affairs. If the court orders the release of this information through community notification, the notification shall be carried out by the local law enforcement authority applicable to the person's residence.

D. The court may review the treatment prognosis of any registered juvenile sex offender at any time and may, in its discretion, order release of additional information from the juvenile

sex offender registry, as deemed appropriate for the protection of the public.

Added by Laws 2001, c. 341, § 4, eff. July 1, 2001. Amended by Laws 2002, c. 164, § 3, eff. July 1, 2002; Laws 2009, c. 234, § 104, emerg. eff. May 21, 2009. Renumbered from § 7308-1.4 of Title 10 by Laws 2009, c. 234, § 191, emerg. eff. May 21, 2009.

§10A-2-8-105. Juvenile sex offenders ordered to probation - Notification of duty to register.

On or after July 1, 2001, when the court orders a juvenile sex offender to register on the juvenile sex offender registry as provided in Section 2-8-104 of this title, the court shall provide at the time of the order written notification of the duty to register. The written notification shall be a form provided by the Office of Juvenile Affairs and shall be signed by the juvenile and a parent or guardian who has custody and control of the juvenile. One copy shall be retained by the court, one copy shall be provided to the juvenile offender, and one copy shall be submitted within three (3) working days to the juvenile sex offender registry.

Added by Laws 2001, c. 341, § 5, eff. July 1, 2001. Amended by Laws 2002, c. 164, § 4, eff. July 1, 2002; Laws 2009, c. 234, § 105, emerg. eff. May 21, 2009. Renumbered from § 7308-1.5 of Title 10 by Laws 2009, c. 234, § 191, emerg. eff. May 21, 2009.

§10A-2-8-106. Annual registration - Notification of change of name and address.

An adjudicated juvenile sex offender ordered to register on the juvenile sex offender registry shall be subject to annual registration and change of name and address notification pursuant to this act, except during periods when the juvenile is in the custody of the Office of Juvenile Affairs.

Added by Laws 2001, c. 341, § 7, eff. July 1, 2001. Renumbered from § 7308-1.7 of Title 10 by Laws 2009, c. 234, § 191, emerg. eff. May 21, 2009.

§10A-2-8-107. Failure to register or provide notification of change of name or address.

A. A juvenile sex offender who fails to register or provide notification of a change of name or address is guilty of a misdemeanor.

B. A parent or guardian who has custody and control of a juvenile sex offender commits a misdemeanor offense of failure to supervise a child if the juvenile offender fails to register or provide notification of a change of name or address as required by this act. A person convicted of this offense is punishable by a fine of not more than One Thousand Dollars (\$1,000.00).

Added by Laws 2001, c. 341, § 8, eff. July 1, 2001. Renumbered from § 7308-1.8 of Title 10 by Laws 2009, c. 234, § 191, emerg. eff. May 21, 2009.

§10A-2-8-108. Transfer of registration to adult sex offender registry - Petition.

When a registered juvenile sex offender reaches twenty-one (21) years of age or is otherwise released from the custody of the Office of Juvenile Affairs, the district attorney may petition the court to transfer the person's registration to the adult sex offender registry maintained by the Department of Corrections, subject to the provisions of Section 581 et seq. of Title 57 of the Oklahoma Statutes. After notice, if the court determines at a hearing that the person who is registered on the juvenile sex offender registry is likely to or does pose an ongoing serious or aggressive threat to the public or children under sixteen (16) years of age, the court shall order that the delinquent act be deemed an adult criminal conviction for the purpose of registration, notification, and public information access pursuant to Section 581 et seq. of Title 57 of the Oklahoma Statutes. If no petition is filed within ninety (90) days following the twenty-first birthday of the person or the date of release from custody, or if the court determines the person is not likely to or does not pose an ongoing serious or aggressive threat to the public or children under sixteen (16) years of age, the juvenile's name and information shall be deleted from the juvenile sex offender registry, and the person may not be included in the adult sex offender registry.

Added by Laws 2001, c. 341, § 9, eff. July 1, 2001. Amended by Laws 2002, c. 164, § 5, eff. July 1, 2002. Renumbered from § 7308-1.9 of Title 10 by Laws 2009, c. 234, § 191, emerg. eff. May 21, 2009.

§10A-2-8-109. Juveniles not subject to act.

The provisions of this act do not apply to a juvenile who is subject to registration and notification requirements of Section 581 et seq. of Title 57 of the Oklahoma Statutes, because the offender was convicted of a sex offense as an adult.

Added by Laws 2001, c. 341, § 10, eff. July 1, 2001. Renumbered from § 7308-1.10 of Title 10 by Laws 2009, c. 234, § 191, emerg. eff. May 21, 2009.

§10A-2-8-110. Disclosure of information - Immunity from liability.

A. No person or governmental entity, other than those specifically charged in this act with a duty to collect information regarding registered sex offenders, has a duty to inquire, investigate or disclose any information regarding registered sex offenders.

B. No person or governmental entity, other than those specifically charged in this act with an affirmative duty to provide public access to information regarding registered sex offenders, shall be held liable for any failure to disclose any information regarding registered sex offenders to any other person or entity.

C. Every person or governmental entity who, acting without malice or criminal intent, obtains or disseminates information under this act shall be immune from civil liability for any damages claimed as a result of such disclosures made or received.

Added by Laws 2001, c. 341, § 11, eff. July 1, 2001. Renumbered from § 7308-1.11 of Title 10 by Laws 2009, c. 234, § 191, emerg. eff. May 21, 2009.

§10A-2-8-111. Use of information to commit crime or cause physical harm or damage to property - Penalties.

Any person who uses information obtained pursuant to this act to commit a crime or to cause physical harm to any person or damage to property shall be guilty of a misdemeanor upon conviction, and, in addition to any other punishment, shall be punished by imprisonment in the county jail for a term not to exceed one (1) year, or by a fine not to exceed One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

Added by Laws 2001, c. 341, § 12, eff. July 1, 2001. Renumbered from § 7308-1.12 of Title 10 by Laws 2009, c. 234, § 191, emerg. eff. May 21, 2009.

§10A-2-8-112. Rules, procedures, and forms.

The Office of Juvenile Affairs shall promulgate rules, procedures, and forms necessary for the implementation of a juvenile sex offender registry.

Added by Laws 2001, c. 341, § 13, eff. July 1, 2001. Renumbered from § 7308-1.13 of Title 10 by Laws 2009, c. 234, § 191, emerg. eff. May 21, 2009.

§10A-2-8-221. Transmission of obscenity and child pornography.

A. Whenever the district attorney for any district has reasonable cause to believe that an individual, with knowledge of its content, is engaged in sending a transmission or causing a transmission to originate within this state containing obscene material or child pornography, as such terms are defined in Section 1024.1 of Title 21 of the Oklahoma Statutes, the district attorney for the district into which the transmission is sent or caused to be sent, may institute an action in the district court for an adjudication of the obscenity or child pornographic content of the transmission. Provided that if the conditions of subsection B of this section are present, then it shall be at the discretion of the district attorney whether the action instituted is a juvenile offense

as defined in subsection B of this section or whether the action instituted is a felony for a violation of Section 1040.13a of Title 21 of the Oklahoma Statutes.

The individual sending the transmission specified in this section may be charged and tried in any district wherein the transmission is sent or in which it is received by the person to whom it was transmitted.

For purposes of any criminal prosecution pursuant to a violation of this section, the person violating the provisions of this section shall be deemed to be within the jurisdiction of this state by the fact of accessing any computer, cellular phone, or other computer-related or satellite-operated device in this state, regardless of the actual jurisdiction where the violator resides.

B. Any individual under eighteen (18) years of age who engages in the original or relayed transmission of obscene material or child pornography via electronic media in the form of digital images, videos, or other depictions of real persons under the age of eighteen (18) years, and:

1. The original or relayed transmission is of another minor over thirteen (13) years of age and is made with the consent of the pictured individual and is transmitted to five or fewer individual destinations, known or unknown, shall be guilty of a misdemeanor violation of this section punishable by:

- a. a fine not to exceed Five Hundred Dollars (\$500.00) for the first offense,
- b. a fine not to exceed One Thousand Dollars (\$1,000.00) for a second and subsequent offense,
- c. up to forty (40) hours of community service,
- d. a referral to a juvenile bureau to propose a probation plan which shall be adopted through disposition, or
- e. attendance and successful completion of an educational program or a delinquency prevention and diversion program as provided in Section 24-100.4 of Title 70 of the Oklahoma Statutes. The court shall have the discretion to order the parent or legal guardian of the juvenile to attend and successfully complete the educational program;

2. The original or relayed transmission is of another minor over thirteen (13) years of age and is made without the consent of the pictured individual, or is sent to six or more individual destinations, known or unknown, shall be guilty of a misdemeanor violation of this section punishable by:

- a. a fine not to exceed Seven Hundred Dollars (\$700.00) for the first offense,
- b. a fine not to exceed One Thousand Four Hundred Dollars (\$1,400.00) for a second or subsequent offense,
- c. up to sixty (60) hours of community service,

- d. a referral to a juvenile bureau to propose a probation plan which shall be adopted through disposition, and
- e. attendance and successful completion of an educational program or a delinquency prevention and diversion program as provided in Section 24-100.4 of Title 70 of the Oklahoma Statutes. The court shall have the discretion to order the parent or legal guardian of the juvenile to attend and successfully complete the educational program; and

3. The original or relayed transmission is of another minor thirteen (13) years of age or younger, with or without the pictured individual's consent, and is transmitted to any number of destinations, known or unknown, shall be guilty of a misdemeanor violation of this section punishable by:

- a. a fine not to exceed Nine Hundred Dollars (\$900.00) for the first offense,
- b. a fine not to exceed One Thousand Eight Hundred Dollars (\$1,800.00) for a second or subsequent offense,
- c. up to eighty (80) hours of community service,
- d. a referral to a juvenile bureau to propose a probation plan which may be adopted through disposition, and
- e. attendance and successful completion of an educational program or a delinquency prevention and diversion program as provided in Section 24-100.4 of Title 70 of the Oklahoma Statutes. The court shall have the discretion to order the parent or legal guardian of the juvenile to attend and successfully complete the educational program.

C. The fact that the individual making the transmission and the individual pictured are the same does not alter the criminality provided in this section.

D. It is an affirmative defense to the relayed transmission of obscene material or child pornography, as these terms are defined in Section 1024.1 of Title 21 of the Oklahoma Statutes, if a juvenile:

1. Has not solicited the visual depiction; and

2. Does not subsequently distribute, present, transmit, post, print, disseminate or exchange the visual depiction except for the purpose of reporting the original transmission or relayed transmission to appropriate school or law enforcement authorities.

Added by Laws 2013, c. 404, § 24, eff. Nov. 1, 2013. Amended by Laws 2014, c. 345, § 1, eff. Nov. 1, 2014.

§10A-2-8-222. Intoxicating beverages or low-point beer - Possession by persons under age 21.

It shall be unlawful for any person under the age of twenty-one (21) years to be in the possession of any intoxicating beverage containing more than three and two-tenths percent (3.2%) alcohol by

weight or any low-point beer as defined by Section 163.2 of Title 37 of the Oklahoma Statutes while such person is upon any public street, road, or highway or in any public building or place.  
Added by Laws 1963, c. 213, § 1, emerg. eff. June 11, 1963. Amended by Laws 2006, c. 61, § 5, eff. July 1, 2006. Renumbered from § 1215 of Title 21 by Laws 2013, c. 404, § 27, eff. Nov. 1, 2013.

§10A-2-8-223. Penalties.

Any person violating the provisions of Section 1 of this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail not to exceed thirty (30) days or by payment of a fine not to exceed One Hundred Dollars (\$100.00) or by both such fine and imprisonment.  
Added by Laws 1963, c. 213, § 2, emerg. eff. June 11, 1963.  
Renumbered from § 1216 of Title 21 by Laws 2013, c. 404, § 27, eff. Nov. 1, 2013.

§10A-2-8-224. Purchase, receipt or possession of tobacco or vapor products by minors prohibited - Falsifying proof of age - Penalties - Notification of parent or guardian - Municipal ordinances.

A. It is unlawful for a person who is under eighteen (18) years of age to purchase, receive, or have in his or her possession a tobacco product, or vapor product, or to present or offer to any person any purported proof of age which is false or fraudulent, for the purpose of purchasing or receiving any tobacco product or vapor product. It shall not be unlawful for an employee under eighteen (18) years of age to handle tobacco products or vapor products when required in the performance of the employee's duties.

B. When a person violates subsection A of this section, the Alcoholic Beverage Laws Enforcement (ABLE) Commission shall impose an administrative fine of:

1. Not to exceed One Hundred Dollars (\$100.00) for a first offense; and
2. Not to exceed Two Hundred Dollars (\$200.00) for a second or subsequent offense within a one-year period following the first offense.

Upon failure of the individual to pay the administrative fine within ninety (90) days of the day of the fine, the ABLE Commission shall notify the Department of Public Safety, and the Department shall suspend or not issue a driver license to the individual until proof of payment has been furnished to the Department of Public Safety.

C. The ABLE Commission shall establish rules to provide for notification to a parent or guardian of any minor cited for a violation of this section.

D. Cities and towns may enact and municipal police officers may enforce ordinances prohibiting and penalizing conduct under

provisions of this section, but the provisions of such ordinances shall be the same as provided for in this section, and the enforcement provisions under such ordinances shall not be more stringent than those of this section.

E. For the purposes of this section, the term "vapor products" shall have the same meaning as provided in the Prevention of Youth Access to Tobacco Act.

Added by Laws 1994, c. 137, § 5, eff. July 1, 1994. Amended by Laws 1996, c. 144, § 3, eff. Nov. 1, 1996; Laws 1997, c. 171, § 2, eff. Nov. 1, 1997. Renumbered from § 600.4 of Title 37 by Laws 2013, c. 404, § 28, eff. Nov. 1, 2013. Amended by Laws 2014, c. 162, § 5, eff. Nov. 1, 2014.

§10A-2-9-101. Short title.

This act shall be known and cited as the "Interstate Compact for Juveniles Act".

Added by Laws 2004, c. 147, § 1, eff. July 1, 2004. Amended by Laws 2009, c. 234, § 107, emerg. eff. May 21, 2009. Renumbered from § 7309-1.1 of Title 10 by Laws 2009, c. 234, § 192, emerg. eff. May 21, 2009.

§10A-2-9-102. Purpose.

THE INTERSTATE COMPACT FOR JUVENILES  
ARTICLE I  
PURPOSE

A. The compacting states to this Interstate Compact recognize that each state is responsible for the proper supervision or return of juveniles, delinquents and status offenders who are on probation or parole and who have absconded, escaped or run away from supervision and control and in so doing have endangered their own safety and the safety of others. The compacting states also recognize that each state is responsible for the safe return of juveniles who have run away from home and in doing so have left their state of residence. The compacting states also recognize that Congress, by enacting the Crime Control Act, 4 U.S.C. Section 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.

B. It is the purpose of this compact, through means of joint and cooperative action among the compacting states to:

1. Ensure that the adjudicated juveniles and status offenders subject to this compact are provided adequate supervision and services in the receiving state as ordered by the adjudicating judge or parole authority in the sending state;

2. Ensure that the public safety interests of the citizens, including the victims of juvenile offenders, in both the sending and receiving states are adequately protected;

3. Return juveniles who have run away, absconded or escaped from supervision or control or have been accused of an offense to the state requesting their return;

4. Make contracts for the cooperative institutionalization in public facilities in member states for delinquent youth needing special services;

5. Provide for the effective tracking and supervision of juveniles;

6. Equitably allocate the costs, benefits and obligations of the compacting states;

7. Establish procedures to manage the movement between states of juvenile offenders released to the community under the jurisdiction of courts, juvenile departments, or any other criminal or juvenile justice agency which has jurisdiction over juvenile offenders;

8. Ensure immediate notice to jurisdictions where defined offenders are authorized to travel or to relocate across state lines;

9. Establish procedures to resolve pending charges detainers. against juvenile offenders prior to transfer or release to the community under the terms of this compact;

10. Establish a system of uniform data collection on information pertaining to juveniles subject to this compact that allows access by authorized juvenile justice and criminal justice officials, and regular reporting of Compact activities to heads of state executive, judicial, and legislative branches and juvenile and criminal justice administrators;

11. Monitor compliance with rules governing interstate movement of juveniles and initiate interventions to address and correct noncompliance;

12. Coordinate training and education regarding the regulation of interstate movement of juveniles for officials involved in such activity; and

13. Coordinate the implementation and operation of the compact with the Interstate Compact for the Placement of Children, the Interstate Compact for Adult Offender Supervision and other compacts affecting juveniles particularly in those cases where concurrent or overlapping supervision issues arise.

It is the policy of the compacting states that the activities conducted by the Interstate Commission created herein are the formation of public policies and therefore are public business. Furthermore, the compacting states shall cooperate and observe their individual and collective duties and responsibilities for the prompt return and acceptance of juveniles subject to the provisions of this compact.

The provisions of this compact shall be reasonably and liberally construed to accomplish the purposes and policies of the compact.

Added by Laws 2004, c. 147, § 2, eff. July 1, 2004. Renumbered from § 7309-1.2 of Title 10 by Laws 2009, c. 234, § 192, emerg. eff. May 21, 2009.

§10A-2-9-103. Definitions.

ARTICLE II  
DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

1. "Bylaws" means those bylaws established by the Interstate Commission for its governance, or for directing or controlling its actions or conduct;

2. "Compact administrator" means the individual in each compacting state appointed pursuant to the terms of this compact, responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission and policies adopted by the State Council under this compact;

3. "Compacting state" means any state which has enacted the enabling legislation for this compact;

4. "Commissioner" means the voting representative of each compacting state appointed pursuant to Article III of this compact;

5. "Court" means any court having jurisdiction over delinquent, neglected, or dependent children;

6. "Deputy compact administrator" means the individual, if any, in each compacting state appointed to act on behalf of a Compact Administrator pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission and policies adopted by the State Council under this compact;

7. "Interstate Commission" means the Interstate Commission for Juveniles created by Article III of this compact;

8. "Juvenile" means any person defined as a juvenile in any member state or by the rules of the Interstate Commission, including:

- a. "accused delinquent" means a person charged with an offense that, if committed by an adult, would be a criminal offense,
- b. "adjudicated delinquent" means a person found to have committed an offense that, if committed by an adult, would be a criminal offense,
- c. "accused status offender" means a person charged with an offense that would not be a criminal offense if committed by an adult,
- d. "adjudicated status offender" means a person found to have committed an offense that would not be a criminal offense if committed by an adult, and

e. "non-offender" means a person in need of supervision who has not been accused or adjudicated a status offender or delinquent;

9. "Noncompacting state" means any state which has not enacted the enabling legislation for this compact;

10. "Probation or parole" means any kind of supervision or conditional release of juveniles authorized under the laws of the compacting states;

11. "Rule" means a written statement by the Interstate Commission promulgated pursuant to Article VI of this compact that is of general applicability, implements, interprets or prescribes a policy or provision of the Compact, or an organizational, procedural, or practice requirement of the Interstate Commission, and has the force and effect of statutory law in a compacting state, and includes the amendment, repeal, or suspension of an existing rule; and

12. "State" means a state of the United States, the District of Columbia (or its designee), the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands.

Added by Laws 2004, c. 147, § 3, eff. July 1, 2004. Renumbered from § 7309-1.3 of Title 10 by Laws 2009, c. 234, § 192, emerg. eff. May 21, 2009.

§10A-2-9-104. Interstate Commission for Juveniles.

#### ARTICLE III

#### INTERSTATE COMMISSION FOR JUVENILES

A. The compacting states hereby create the "Interstate Commission for Juveniles". The Interstate Commission shall be a body corporate and joint agency of the compacting states. The Interstate Commission shall have all the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

B. The Interstate Commission shall consist of commissioners appointed by the appropriate appointing authority in each state pursuant to the rules and requirements of each compacting state and in consultation with the State Council for Interstate Juvenile Supervision created hereunder. The commissioner shall be the compact administrator, deputy compact administrator or designee from that state who shall serve on the Interstate Commission in such capacity under or pursuant to the applicable law of the compacting state.

C. In addition to the commissioners who are the voting representatives of each state, the Interstate Commission shall include individuals who are not commissioners, but who are members of interested organizations. Such noncommissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general, Interstate Compact for Adult

Offender Supervision, Interstate Compact for the Placement of Children, juvenile justice and juvenile corrections officials, and crime victims. All noncommissioner members of the Interstate Commission shall be ex officio (nonvoting) members. The Interstate Commission may provide in its bylaws for such additional ex officio (nonvoting) members, including members of other national organizations, in such numbers as shall be determined by the Interstate Commission.

D. Each compacting state represented at any meeting of the Interstate Commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

E. The Interstate Commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

F. The Interstate Commission shall establish an executive committee, which shall include Interstate Commission officers, members, and others as determined by the bylaws. The executive committee shall have the power to act on behalf of the Interstate Commission during periods when the Interstate Commission is not in session, with the exception of rulemaking and/or amendment to the compact. The executive committee shall oversee the day-to-day activities of the administration of the compact managed by an executive director and Interstate Commission staff; administers enforcement and compliance with the provisions of the compact, its bylaws and rules, and performs such other duties as directed by the Interstate Commission or set forth in the bylaws.

G. Each member of the Interstate Commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the Interstate Commission. A member shall vote in person and shall not delegate a vote to another compacting state. However, a commissioner, in consultation with the state council, shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the compacting state at a specified meeting. The bylaws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication.

H. The Interstate Commission's bylaws shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure any information or official records to the extent they

would adversely affect personal privacy rights or proprietary interests.

I. Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and any of its committees may close a meeting to the public where it determines by two-thirds vote that an open meeting would be likely to:

1. Relate solely to the Interstate Commission's internal personnel practices and procedures;
2. Disclose matters specifically exempted from disclosure by statute;
3. Disclose trade secrets or commercial or financial information which is privileged or confidential;
4. Involve accusing any person of a crime, or formally censuring any person;
5. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
6. Disclose investigative records compiled for law enforcement purposes;
7. Disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of or for the use of, the Interstate Commission with respect to a regulated person or entity for the purpose of regulation or supervision of such person or entity;
8. Disclose information, the premature disclosure of which would significantly endanger the stability of a regulated person or entity; or
9. Specifically relate to the Interstate Commission's issuance of a subpoena, or its participation in a civil action or other legal proceeding.

J. For every meeting closed pursuant to this provision, the Interstate Commission's legal counsel shall publicly certify that, in the legal counsel's opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefore, including a description of each of the views expressed on any item and the record of any roll call vote (reflected in the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

K. The Interstate Commission shall collect standardized data concerning the interstate movement of juveniles as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements. Such

methods of data collection, exchange and reporting shall insofar as is reasonably possible conform to up-to-date technology and coordinate its information functions with the appropriate repository of records.

Added by Laws 2004, c. 147, § 4, eff. July 1, 2004. Renumbered from § 7309-1.4 of Title 10 by Laws 2009, c. 234, § 192, emerg. eff. May 21, 2009.

§10A-2-9-105. Interstate Commission - Powers and duties.

#### ARTICLE IV

#### POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the following powers and duties:

1. To provide for dispute resolution among compacting states;
2. To promulgate rules to effect the purposes and obligations as enumerated in this compact, which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact;
3. To oversee, supervise and coordinate the interstate movement of juveniles subject to the terms of this compact and any bylaws adopted and rules promulgated by the Interstate Commission;
4. To enforce compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process;
5. To establish and maintain offices which shall be located within one or more of the compacting states;
6. To purchase and maintain insurance and bonds;
7. To borrow, accept, hire or contract for services of personnel;
8. To establish and appoint committees and hire staff which it deems necessary for the carrying out of its functions including, but not limited to, an executive committee as required by Article III which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder;
9. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to, inter alia, conflicts of interest, rates of compensation, and qualifications of personnel;
10. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it;
11. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed;

12. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed;
  13. To establish a budget and make expenditures and levy dues as provided in Article VIII of this compact;
  14. To sue and be sued;
  15. To adopt a seal and bylaws governing the management and operation of the Interstate Commission;
  16. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact;
  17. To report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission;
  18. To coordinate education, training and public awareness regarding the interstate movement of juveniles for officials involved in such activity;
  19. To establish uniform standards of the reporting, collecting and exchanging of data; and
  20. The Interstate Commission shall maintain its corporate books and records in accordance with the bylaws.
- Added by Laws 2004, c. 147, § 5, eff. July 1, 2004. Renumbered from § 7309-1.5 of Title 10 by Laws 2009, c. 234, § 192, emerg. eff. May 21, 2009.

§10A-2-9-106. Interstate Commission - Organization and operation.

#### ARTICLE V

#### ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

##### A. Bylaws.

The Interstate Commission shall, by a majority of the members present and voting, within twelve (12) months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

- a. establishing the fiscal year of the Interstate Commission,
- b. establishing an executive committee and such other committees as may be necessary,
- c. provide for the establishment of committees governing any general or specific delegation of any authority or function of the Interstate Commission,
- d. providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting,
- e. establishing the titles and responsibilities of the officers of the Interstate Commission,

- f. providing a mechanism for concluding the operations of the Interstate Commission and the return of any surplus funds that may exist upon the termination of the Compact after the payment and/or reserving of all of its debts and obligations,
- g. providing "start-up" rules for initial administration of the compact, and
- h. establishing standards and procedures for compliance and technical assistance in carrying out the compact.

B. Officers and staff.

1. The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson and a vice-chairperson, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any ordinary and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the Interstate Commission.

2. The Interstate Commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a Member and shall hire and supervise such other staff as may be authorized by the Interstate Commission.

C. Qualified immunity, defense and indemnification.

1. The Interstate Commission's executive director and employees shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to any actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities; provided, that any such person shall not be protected from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

2. The liability of any commissioner, or the employee or agent of a commissioner, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. Nothing in this subsection shall be construed

to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

3. The Interstate Commission shall defend the executive director or the employees or representatives of the Interstate Commission and, subject to the approval of the Attorney General of the state represented by any commissioner of a compacting state, shall defend such commissioner or the commissioner's representatives or employees in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

4. The Interstate Commission shall indemnify and hold the commissioner of a compacting state, or the commissioner's representatives or employees, or the Interstate Commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

Added by Laws 2004, c. 147, § 6, eff. July 1, 2004. Renumbered from § 7309-1.6 of Title 10 by Laws 2009, c. 234, § 192, emerg. eff. May 21, 2009.

§10A-2-9-107. Interstate Commission - Rulemaking.

#### ARTICLE VI

##### RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

B. Rulemaking shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act", 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000), or such other administrative procedures act, as the Interstate Commission deems appropriate consistent with due process requirements under the U.S. Constitution as now or hereafter interpreted by the U.S. Supreme Court. All rules and amendments shall become binding as of the date specified, as

published with the final version of the rule as approved by the Interstate Commission.

C. When promulgating a rule, the Interstate Commission shall, at a minimum:

1. Publish the proposed rule's entire text stating the reason(s) for that proposed rule;

2. Allow and invite any and all persons to submit written data, facts, opinions and arguments, which information shall be added to the record, and be made publicly available;

3. Provide an opportunity for an informal hearing if petitioned by ten (10) or more persons; and

4. Promulgate a final rule and its effective date, if appropriate, based on input from state or local officials, or interested parties.

D. Allow, not later than sixty (60) days after a rule is promulgated, any interested person to file a petition in the United States District Court for the District of Columbia or in the Federal District Court where the Interstate Commission's principal office is located for judicial review of such rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside. For purposes of this subsection, evidence is substantial if it would be considered substantial evidence under the Model State Administrative Procedures Act.

E. If a majority of the legislatures of the compacting states rejects a rule, those states may, by enactment of a statute or resolution in the same manner used to adopt the compact, cause that such rule shall have no further force and effect in any compacting state.

F. The existing rules governing the operation of the Interstate Compact on Juveniles superceded by this act shall be null and void twelve (12) months after the first meeting of the Interstate Commission created hereunder.

G. Upon determination by the Interstate Commission that a state-of-emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, but no later than ninety (90) days after the effective date of the emergency rule. Added by Laws 2004, c. 147, § 7, eff. July 1, 2004. Renumbered from § 7309-1.7 of Title 10 by Laws 2009, c. 234, § 192, emerg. eff. May 21, 2009.

§10A-2-9-108. Interstate Commission - Oversight, enforcement and dispute resolution.

ARTICLE VII  
OVERSIGHT, ENFORCEMENT AND DISPUTE

RESOLUTION BY THE INTERSTATE COMMISSION

A. Oversight.

1. The Interstate Commission shall oversee the administration and operations of the interstate movement of juveniles subject to this compact in the compacting states and shall monitor such activities being administered in noncompacting states which may significantly affect compacting states.

2. The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall be received by all the judges, public officers, commissions, and departments of the state government as evidence of the authorized statute and administrative rules. All courts shall take judicial notice of the compact and the rules. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the Interstate Commission, it shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes.

B. Dispute resolution.

1. The compacting states shall report to the Interstate Commission on all issues and activities necessary for the administration of the compact as well as issues and activities pertaining to compliance with the provisions of the compact and its bylaws and rules.

2. The Interstate Commission shall attempt, upon the request of a compacting state, to resolve any disputes or other issues which are subject to the compact and which may arise among compacting states and between compacting and noncompacting states. The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

3. The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact using any or all means set forth in Article XI of this compact. Added by Laws 2004, c. 147, § 8, eff. July 1, 2004. Renumbered from § 7309-1.8 of Title 10 by Laws 2009, c. 234, § 192, emerg. eff. May 21, 2009.

§10A-2-9-109. Finance.

ARTICLE VIII  
FINANCE

A. The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

B. The Interstate Commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, taking into consideration the population of each compacting state and the volume of interstate movement of juveniles in each compacting state and shall promulgate a rule binding upon all compacting states which governs said assessment.

C. The Interstate Commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

Added by Laws 2004, c. 147, § 9, eff. July 1, 2004. Renumbered from § 7309-1.9 of Title 10 by Laws 2009, c. 234, § 192, emerg. eff. May 21, 2009.

§10A-2-9-110. State Council.

#### ARTICLE IX

#### THE STATE COUNCIL

Each member state shall create a State Council for Interstate Juvenile Supervision. While each state may determine the membership of its own state council, its membership must include at least one representative from the legislative, judicial, and executive branches of government, victims groups, and the compact administrator, deputy compact administrator or designee. Each compacting state retains the right to determine the qualifications of the compact administrator or deputy compact administrator. Each state council will advise and may exercise oversight and advocacy concerning that state's participation in Interstate Commission activities and other duties as may be determined by that state including, but not limited to, development of policy concerning operations and procedures of the compact within that state.

Added by Laws 2004, c. 147, § 10, eff. July 1, 2004. Renumbered from § 7309-1.10 of Title 10 by Laws 2009, c. 234, § 192, emerg. eff. May 21, 2009.

§10A-2-9-111. Compacting states - Effective date - Amendment.

ARTICLE X

COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

A. Any state, the District of Columbia (or its designee), the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands as defined in Article II of this compact is eligible to become a compacting state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than thirty-five of the states. The initial effective date shall be the later of July 1, 2004, or upon enactment into law by the thirty-fifth jurisdiction. Thereafter it shall become effective and binding as to any other compacting state upon enactment of the compact into law by that state. The governors of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states and territories of the United States.

C. The Interstate Commission may propose amendments to the compact for enactment by the compacting states. No amendment shall become effective and binding upon the Interstate Commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

Added by Laws 2004, c. 147, § 11, eff. July 1, 2004. Renumbered from § 7309-1.11 of Title 10 by Laws 2009, c. 234, § 192, emerg. eff. May 21, 2009.

§10A-2-9-112. Withdrawal - Default - Termination - Judicial enforcement.

ARTICLE XI

WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL ENFORCEMENT

A. Withdrawal.

1. Once effective, the compact shall continue in force and remain binding upon each and every compacting state; provided that a compacting state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.

2. The effective date of withdrawal is the effective date of the repeal.

3. The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other compacting states of the withdrawing state's intent to withdraw within sixty (60) days of its receipt thereof.

4. The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of

withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.

5. Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

B. Technical assistance, fines, suspension, termination and default.

1. If the Interstate Commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact, or the bylaws or duly promulgated rules, the Interstate Commission may impose any or all of the following penalties:

- a. remedial training and technical assistance as directed by the Interstate Commission,
- b. alternative dispute resolution,
- c. fines, fees, and costs in such amounts as are deemed to be reasonable as fixed by the Interstate Commission, and
- d. suspension or termination of membership in the compact, which shall be imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted and the Interstate Commission has therefore determined that the offending state is in default. Immediate notice of suspension shall be given by the Interstate Commission to the Governor, the Chief Justice or the Chief Judicial Officer of the state, the majority and minority leaders of the defaulting state's legislature, and the state council. The grounds for default include, but are not limited to, failure of a compacting state to perform such obligations or responsibilities imposed upon it by this compact, the bylaws, or duly promulgated rules and any other grounds designated in Interstate Commission bylaws and rules. The Interstate Commission shall immediately notify the defaulting state in writing of the penalty imposed by the Interstate Commission and of the default pending a cure of the default. The Interstate Commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the Interstate Commission, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of termination.

2. Within sixty (60) days of the effective date of termination of a defaulting state, the Interstate Commission shall notify the Governor, the Chief Justice or Chief Judicial Officer, the Majority and Minority Leaders of the defaulting state's legislature, and the state council of such termination.

3. The defaulting state is responsible for all assessments, obligations and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

4. The Interstate Commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

5. Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the Interstate Commission pursuant to the rules.

C. Judicial enforcement.

The Interstate Commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its offices, to enforce compliance with the provisions of the compact, its duly promulgated rules and bylaws, against any compacting state in default. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorneys fees.

D. Dissolution of compact.

1. The compact dissolves effective upon the date of the withdrawal or default of the compacting state, which reduces membership in the compact to one compacting state.

2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and any surplus funds shall be distributed in accordance with the bylaws.

Added by Laws 2004, c. 147, § 12, eff. July 1, 2004. Renumbered from § 7309-1.12 of Title 10 by Laws 2009, c. 234, § 192, emerg. eff. May 21, 2009.

§10A-2-9-113. Severability and construction.

ARTICLE XII

SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

Added by Laws 2004, c. 147, § 13, eff. July 1, 2004. Renumbered from § 7309-1.13 of Title 10 by Laws 2009, c. 234, § 192, emerg. eff. May 21, 2009.

§10A-2-9-114. Binding effect - Other laws.

ARTICLE XIII

BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Other laws.

1. Nothing herein prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.

2. All compacting states' laws other than state constitutions and other interstate compacts conflicting with this compact are superseded to the extent of the conflict.

B. Binding effect of compact.

1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the compacting states.

2. All agreements between the Interstate Commission and the compacting states are binding in accordance with their terms.

3. Upon the request of a party to a conflict over meaning or interpretation of Interstate Commission actions, and upon a majority vote of the compacting states, the Interstate Commission may issue advisory opinions regarding such meaning or interpretation.

4. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers or jurisdiction sought to be conferred by such provision upon the Interstate Commission shall be ineffective and such obligations, duties, powers or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers or jurisdiction are delegated by law in effect at the time this compact becomes effective.

Added by Laws 2004, c. 147, § 14, eff. July 1, 2004. Renumbered from § 7309-1.14 of Title 10 by Laws 2009, c. 234, § 192, emerg. eff. May 21, 2009.

§10A-2-9-115. Appointing authority - Compact administrator.

A. The Governor shall be the appointing authority pursuant to the Interstate Compact for Juveniles.

B. The Executive Director of the Office of Juvenile Affairs shall serve as the Compact Administrator pursuant to the Interstate Compact for Juveniles.

Added by Laws 2013, c. 368, § 1.

§10A-2-9-116. State Council for Interstate Juveniles Supervision.

A. Pursuant to the provisions set forth in Article IX of the Interstate Compact for Juveniles Act, Section 2-9-110 of Title 10A of

the Oklahoma Statutes, there is hereby created the "State Council for Interstate Juvenile Supervision". The State Council for Interstate Juvenile Supervision shall consist of eleven (11) members as follows:

1. One member shall be the Compact Administrator of the Interstate Compact for Juveniles;
2. Two members shall be presiding judges of a court having juvenile law jurisdiction to be appointed by the President of the Oklahoma Judicial Conference;
3. One member who is an employee of the Office of Juvenile Affairs to be appointed by the Executive Director of the Office of Juvenile Affairs;
4. One member who is an employee of the Department of Human Services to be appointed by the Director of Human Services;
5. One member of the Oklahoma House of Representatives to be appointed by the Speaker of the House of Representatives;
6. One member of the Oklahoma State Senate to be appointed by the President Pro Tempore of the State Senate;
7. One member representing an Oklahoma nonprofit victims organization to be appointed by the President Pro Tempore of the State Senate;
8. One member who is a district attorney or assistant district attorney who has experience in juvenile cases to be appointed by the Executive Coordinator of the District Attorneys Council;
9. One member who is a licensed, practicing attorney that regularly represents juveniles charged with crimes or delinquent acts to be appointed by the Executive Director of the Oklahoma Bar Association; and
10. One member representing an Oklahoma nonprofit youth services organization to be appointed by the Speaker of the House of Representatives.

B. Appointments to the state council shall be made by July 1, 2013. Members shall serve at the pleasure of their appointing authorities. Members appointed to the state council shall serve for terms of three (3) years. Any vacancies and unexpired terms shall be filled in the same manner as the original appointment and within sixty (60) days of the vacancy.

C. The state council may meet quarterly and at such other times as may be set by the Compact Administrator. The Compact Administrator or designee shall preside at all meetings of the state council. A majority of the members present at a meeting shall constitute a quorum to transact business and a majority present may act for the state council.

D. Members of the state council shall receive no compensation for their service, but may be reimbursed by their appointing authorities for their actual and necessary travel expenses.

E. The State Council for Interstate Juvenile Supervision shall advise and may exercise oversight and advocacy concerning the

participation of Oklahoma in Interstate Commission activities and other duties including, but not limited to, development of policy concerning operations and procedures of the Interstate Compact for Juveniles in this state.

F. The Office of Juvenile Affairs shall provide staff assistance to the State Council for Interstate Juvenile Supervision as necessary to assist the state council in the performance of its duties.  
Added by Laws 2013, c. 368, § 2.

§10A-2-10-101. Oklahoma Mentoring Children of Incarcerated Parents Program - Purpose.

A. The Oklahoma Commission on Children and Youth shall establish the Oklahoma Mentoring Children of Incarcerated Parents Program.

B. The purpose of the Oklahoma Mentoring Children of Incarcerated Parents Program is to provide effective intervention services through one-to-one mentoring relationships to children of incarcerated parents who either:

1. Are in the custody of the Office of Juvenile Affairs and currently placed outside the home; or

2. Have been identified by the Office of Juvenile Affairs as at risk of becoming involved in the juvenile justice system.

Added by Laws 2012, c. 353, § 10, emerg. eff. June 8, 2012.

§10A-2-10-102. Application to administer - Requirements.

1. The Oklahoma Commission on Children and Youth shall issue a request for proposals on or before July 1, 2012, and each July 1 thereafter for which the Oklahoma Mentoring Children of Incarcerated Parents Program is funded, seeking applications to administer the Oklahoma Mentoring Children of Incarcerated Parents Program.

2. The Department of Central Services shall work in conjunction with the Commission to coordinate a competitive bid process.

3. The Commission, in coordination with the Department of Central Services, shall review the applications for compliance with the established requirements.

4. Entities eligible to submit applications to administer the Oklahoma Mentoring Children of Incarcerated Parents Program shall be limited to nonprofit organizations or programs which are exempt from taxation pursuant to the provisions of Section 501 (c) (3) of the Internal Revenue Code, 26 U.S.C., Section 501 (c) (3) and which otherwise meet the requirements set forth in paragraph 5 of this section.

5. The Commission may approve an application that meets the requirements set forth in this subsection and as established by the Commission. The approved applicant shall provide one-to-one mentoring services to children of incarcerated parents who are in the custody of the Office of Juvenile Affairs and currently placed outside the home, or have been identified by the Office of Juvenile

Affairs as at risk of becoming involved in the juvenile justice system. The selected applicant shall:

- a. currently serve youth ages 6-18,
- b. have a statewide presence,
- c. currently provide one-to-one mentoring to children of incarcerated parents,
- d. have served children of incarcerated parents for five (5) years or more,
- e. have rigorous volunteer application and screening processes,
- f. have child safety policies and procedures,
- g. measure performance outcomes via multiple tools,
- h. have five (5) years or more of performance outcome data,
- i. provide ongoing safety training and diversity training for program staff,
- j. have an established working relationship with the Office of Juvenile Affairs,
- k. set match-retention-rate goals,
- l. have experience working with high-risk populations, and
- m. deliver contracted services at a cost no greater than One Thousand Five Hundred Dollars (\$1,500.00) per mentor-mentee match.

6. On or before July 1, 2012, and each July 1 thereafter for which the Oklahoma Mentoring Children of Incarcerated Parents Program is funded, the Office of Juvenile Affairs shall forward applications that the Office of Juvenile Affairs has determined meet the requirements of this section to the Commission. On or before November 1, 2012, and each November thereafter for which the Oklahoma Mentoring Children of Incarcerated Parents Program is funded, the Commission shall award, through a competitive bid process, one grant to one applicant to provide one-to-one mentoring services to children of incarcerated parents who either are in the custody of the Office of Juvenile Affairs and currently placed outside the home or have been identified by the Office of Juvenile Affairs as at risk of becoming involved in the juvenile justice system.

7. In addition to the grant funding, the Commission shall be authorized to provide other appropriate assistance to the selected applicant.

8. The Commission shall be authorized to promulgate rules and establish procedures necessary to implement the provisions of this act.

9. The Department of Central Services shall work in conjunction with the Commission to implement the provisions of this act.

Added by Laws 2012, c. 353, § 11, emerg. eff. June 8, 2012.

NOTE: Paragraphs 1 through 9 of this section should be *subsections A through I* and subparagraphs a through m of paragraph 5 should be *paragraphs 1 through 13* of subsection E.

§10A-2-10-103. Annual report.

The Oklahoma Commission on Children and Youth shall prepare annually a report describing the Oklahoma Mentoring Children of Incarcerated Parents Program and measuring its effectiveness. The report shall be submitted to the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Governor of this state no later than March 1 of each applicable year. The report may be used for the purpose of determining whether to continue or sunset the Oklahoma Mentoring Children of Incarcerated Parents Program. Added by Laws 2012, c. 353, § 12, emerg. eff. June 8, 2012.